MONETARY AND FINANCIAL CODE

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Article L111-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The currency of France is the euro. A euro is divided into one hundred cents.

Article L111-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Until 31 December 2001, the franc is the French subdivision of the euro. Until that same date, only banknotes and metallic coins denominated in francs shall be legal tender.

Article L112-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Without prejudice to the provisions of the first paragraph of Article L. 112-2 and Articles L. 112-3 and L. 112-4, automatic indexing of the prices of goods or services is prohibited.
Any clause in a successive performance contract, including all kinds of leases and rental agreements, which provides for application of an index variation period longer than the interval between each review is deemed not to exist.
Any clause in an agreement pertaining to a dwelling unit which provides for indexing linked to the "rents and charges" index used to determine the general retail price indexes is prohibited. The same applies to any clause which provides for indexing linked to the statutory rates of increase set pursuant to Act No. 48-1360 of 1 September 1948, unless the initial amount itself was set in accordance with the provisions of the said Act and its implementing legislation.

Article L112-2
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1135 of 3 December 2001 Article 21 II, Official Journal of 4 December 2001 effective 1 July 2002)
Any clause of a contract which provides for indexing linked to the guaranteed minimum wage, the general level of prices, salaries and wages, or the prices of goods or services which is not directly related to the object of the contract or the business of one of the parties is prohibited. Any clause of a contract relating to a building which provides for indexing linked to variations in the National Construction Cost Index published by the National Institute of Statistics and Economic Studies is deemed to be directly related to its object.
The provisions of the preceding paragraph do not apply to contractual provisions relating to maintenance debts.
Life annuities arranged between individuals pursuant to the provisions of Article 759 of the Civil Code shall be treated as maintenance debts.

Article L112-3
(Act No. 2004-804 of 9 August 2004 Art. 3 Official Journal of 11 August 2004)
(Act No. 2005-841 of 26 July 2005 Art. 35 I Official Journal of 27 July 2005 effective 1 July 2006)
Notwithstanding the provisions of Article L. 112-1 and of the first paragraph of Article L. 112-2, and as determined by decree, the following may be indexed to the general level of prices:
1 The debt instruments and financial futures referred to in 2 and 4 of I of Article L. 211-1;
2 The initial passbook accounts of the Caisse nationale d'épargne and the Caisses d'épargne et de prévoyance,

and the special passbook accounts of the Crédit mutuel referred to in Article L. 221-1;

3 The popular savings passbook accounts referred to in Article L. 221-13;

4 The Industrial Development Accounts referred to in Article L. 221-27;

5 The home-ownership savings plans referred to in Article L. 315-1 of the Building and Housing Code;

6 The company savings plans referred to in Article 1 of Act No. 84-578 of 9 July 1984 on development of the economic initiative;

7 The passbook savings accounts available to the manual workers referred to in Article 80 of the 1977 Finance Act Finance Act (No. 76-1232 of 29 December 1976);

8 Loans granted to legal entities and natural persons for business purposes;

9 The rents provided for in agreements relating to residential premises.

Article L112-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Indexing to the guaranteed minimum wage pursuant to the rules laid down in Article L. 141-3 of the Labour Code is authorised.

SECTION II

Obligation to Tender the Exact Amount — Article L112-5

Article L112-5

(Order No. 2005-429 of 6 May 2005 Art. 13 Official Journal of 7 May 2005)

When payment is made in banknotes and metallic coins, the debtor shall tender the exact amount.

SECTION III

Prohibition on Cash Settlement of Certain Debts — Articles L112-6 to L112-9

Article L112-6

(Order No. 2000-916 of 19 September 2000 Art. 1 I Official Journal of 22 September 2000 effective 1 January 2002)
(Amending Finance Act No. 2001-1276 of 28 December 2001 Art. 51 III for 2001 Official Journal of 29 December 2001 effective 1 January 2002)
(Act No. 2005-882 of 2 August 2005 Art. 39 Official Journal of 3 August 2005)

I. - Payments which exceed the sum of 1,100 euros or which are made to settle part of a larger debt relating to rent, transport, services, supplies and work, or the acquisition of real property or movables, or relating to income from registered securities or insurance premiums or contributions, shall be made by crossed cheque, bank transfer or payment card; the same shall apply to transactions involving livestock or raw meat.

The same conditions apply to the payment of salaries and wages above an amount determined by decree.

II. - The provisions of I shall not apply to:

a) Payments made by persons who are unable to settle by cheque or those who, because they no longer have an account, have requested that one be opened pursuant to the provisions of Article L. 312-1;

b) Direct payments made by private individuals who are not traders to other private individuals, traders or tradespeople;

c) Payments for purchases of livestock or raw meat made by a private individual for his own family's consumption or by a farmer to another farmer, provided that neither of the parties concerned is also involved in a non-agricultural occupation which entails such transactions;

d) Payment of the Government's expenditure or that of the public authorities or public institutions.

Notwithstanding the provisions of I above, payments for services rendered which exceed the sum of 450 euros shall be made by bank transfer.

Article L112-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Breaches of the provisions of Article L. 112-6 are established by agents appointed by order of the Minister for the Budget. Offenders are liable to a fiscal fine which cannot exceed 5% of the sums wrongfully settled in cash. The said fine, which is collected in the form of stamp duty, is paid in equal parts by the debtor and the creditor; but each of them is jointly and severally bound to ensure full settlement thereof.

Article L112-8

(Amending Finance Act No. 2001-1276 of 28 December 2001 Art. 51 III for 2001 Official Journal of 29 December 2001 effective 1 January 2002)
(Order No. 2005-429 of 6 May 2005 Art. 14 Official Journal of 7 May 2005)

Any payment in excess of 3,000 euros made by a private individual who is not a trader, for goods or services, shall be made either by a pre-crossed cheque which is not transferable by endorsement, pursuant to Article L. 96 of the Book of Fiscal Procedures, or by any other means which records the amount paid as a debit to an account held at a credit institution, an investment firm or an institution referred to in Article L. 518-1. The provisions of the present paragraph shall nevertheless not impede payment of a deposit, by whatever means, of not more than 460 euros.

However, private individuals who are not traders and who are not fiscally domiciled in France may continue to use traveller's cheques or cash to pay for any item or service costing more than 3,000 euros, provided that the seller of the item or the service provider has duly verified their identity and domicile.

Any payment in excess of 3,000 euros made in respect of one or more items sold at a single auction shall be made as described in the first paragraph.

Any payment of insurance premiums or contributions in excess of 3,000 euros per annum and per policy on a life insurance or death insurance policy shall be made as described in the first paragraph.

Article L112-9

(Conseil d'Etat No. 230461 of 4 July 2001, Recueil Lebon, hitherto unpublished)
(inserted by Order No. 2005-429 of 6 May 2005 Art. 15 I Official Journal of 7 May 2005)

Deliveries of cereals made to cooperatives by producers are paid for either by cheque or via a transfer from a credit institution. The cooperatives authorise those institutions to submit the relevant accounting vouchers to the Finance Inspectorate and to officials of the National Inter-Trade Office for Cereals.

The provisions concerning payments for sales of wheat made to flour mills by storers are extended to secondary sales of cereals from the trade, farmers' supply cooperatives or unions and agribusiness industries.

Article L112-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Salaries and wages are paid as determined in Article L. 143-1 of the Labour Code.

Article L113-1

(Order No. 2005-429 of 6 May 2005 Art. 16 Official Journal of 7 May 2005)

Any change made, on account of the introduction of the euro, to the composition or definition of a variable rate or an index to which reference is made in an agreement shall have no effect on the application of that agreement.

When that variable rate or that index no longer exists on account of the introduction of the euro, the Minister for the Economy may issue a ministerial order to designate a substitute variable rate or index.

The parties to the agreement may nevertheless waive application of the rate or index thus designated by mutual agreement.

Article L121-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

With the exception of those which are legal tender in France, metallic coins of foreign manufacture shall not be accepted by the public authorities in payment of duties and contributions of whatever kind which are payable in cash.

Article L121-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Metallic coins are manufactured in France by the State. The manufacture of French copper coinage may be entrusted to private industry, however, under terms and conditions determined by the regulations.

Article L122-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Banknotes which are legal tender are issued as determined in Article L. 141-5.

Legal tender in the form of a specific type of banknotes denominated in francs may be withdrawn by decree on a proposal from the Bank of France. For a period of ten years thereafter, the Bank remains bound to exchange them at its branches for other types of banknotes which are legal tender.

The provisions relating to lost or stolen bearer securities are not applicable to banknotes which are legal tender.

Article L123-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 17 Official Journal of 7 May 2005)

Banknotes and metallic coins have the benefit of the protection afforded to intellectual works by Articles L. 122-4 and L. 335-2 of the Intellectual Property Code. The issuing authorities hold the copyright thereto.

Part III

Bank Money Instruments **Articles L131-1 to L134-2**

Article L131-1

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

In the present chapter, the word "banker" also denotes persons and institutions which the present code places in the credit institutions category.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-88

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules relating to Post Office cheques are laid down in Articles L. 98 to L. 109 of the Post and Telecommunications Code.

Article L131-2

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The cheque bears:

1. The word "cheque" inserted into the text of the instrument and expressed in the language used for the wording of that instrument;
2. The explicit instruction to pay a given sum;
3. The name of the person who must pay, known as the drawee;
4. An indication as to where the payment must be made;
5. An indication of the date and the place where the cheque is drawn;
6. The signature of the person issuing the cheque, known as the drawer.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-3

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

An instrument from which any statement indicated in Article L. 131-2 is omitted shall not constitute a cheque, save for the cases determined in the following paragraphs.

Failing any special indication, the place indicated next to the name of the drawee is deemed to be the place of payment. If several places are indicated next to the name of the drawee, the cheque is payable at the first place indicated.

Failing these indications or any other indication, the cheque is payable at the place where the drawee has its principal place of business.

A cheque with no indication as to where it was drawn is deemed to have been drawn at the place indicated next to the name of the drawer.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-4

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A cheque may be drawn only on an account held by the drawer with a credit institution, an investment service provider, the Trésor public, the Caisse des dépôts et consignations or the Bank of France, which, at the time when the

cheque was drawn, was in funds, and if an express or tacit agreement existed which entitled the drawer to dispose of those funds by means of a cheque.

Due cover must be provided by the drawer or by the person on whose behalf the cheque is drawn; a drawer acting on behalf of another shall remain personally liable solely in regard to the endorsers and the account-holder.

In the cheque is returned unpaid, the drawer alone is required to prove that the account on which it was drawn was sufficiently in funds at the time of drawing; failing this, he is required to guarantee it, even if the protest for non-payment is made after expiry of the time limit imposed.

Instruments drawn and payable in France in the form of cheques from any person other than those referred to in the first paragraph of the present article are not valid as cheques.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-5

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A cheque cannot be formally accepted. An acknowledgement of acceptance written on a cheque is deemed not written.

The drawee is nevertheless entitled to countersign the cheque; in which case, the countersignature has the effect of certifying the existence of the necessary cover on the date on which it is affixed.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-6

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A cheque may be made payable to:

- a designated person, with or without an express "to order" clause;
- a designated person, with a "not to order" clause or an equivalent clause;
- the bearer.

A cheque payable to a designated person, with the indication "or to the bearer" or an equivalent wording, is treated as a bearer cheque.

A cheque with no indication of the payee is treated as a bearer cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-7

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A cheque may be made out to the order of the drawer.

A cheque may be drawn on behalf of a third party.

A cheque cannot be drawn on the drawer itself, save for a cheque drawn between different institutions belonging to a single drawer and provided that the cheque is not a bearer cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-8

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Any stipulation of interest inserted in the cheque is deemed not written.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-9

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A cheque may be payable at the domicile of a third party, either in the locality where the drawee is domiciled, or in a different locality, provided, however, that the third party is a bank or a Post Office Cheque Centre.

Furthermore, such domiciliation cannot take place against the bearer's will, unless the cheque is crossed and the domiciliation is at the Bank of France of the same place.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-10

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

In the event of the words and figures differing on a cheque whose amount is written fully in letters and also in figures, that cheque shall be valid only for the sum written fully in letters.

In the event of the words and figures differing on a cheque whose amount is written several times, either fully in letters or in figures, that cheque shall be valid only for the lowest sum.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-11

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

If a cheque bears signatures of persons lacking the capacity to issue cheques, false signatures or signatures of imaginary persons, or signatures which, for any other reason, do not bind the persons who signed the cheque, or on behalf of whom it was signed, the obligations of the other signatories remain valid.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-12

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Whoever signs a cheque as a representative of a person on behalf of whom he was not empowered to act is himself bound by the cheque and, if he has paid, enjoys the same rights as the supposed principal. The same applies to a representative who has exceeded his powers.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-13

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The drawer is the guarantor of payment. Any clause through which the drawer seeks to release himself from this guarantee is deemed not written

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-14

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Any cheque in respect of which the requisite cover is available to the drawer must be certified by the drawee if the drawer or the bearer so requests, notwithstanding the drawee's right to replace that cheque with a cheque issued as stipulated in the third paragraph of Article L. 131-7.

The cover for a certified cheque is frozen in favour of the bearer until expiry of the period of validity stipulated in Article L. 131-32, with the drawee assuming liability in relation thereto.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-15

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Whoever submits a cheque for payment must prove his identity by means of an official document which bears his

photograph.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION III

Transfer — Articles L131-16 to L131-27

Article L131-16

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A cheque stipulated as payable to a designated person, with or without an express "to order" clause, is transferable by means of endorsement.

A cheque stipulated as payable to a designated person with a "not to order" clause or an equivalent clause is transferable only in the form of an ordinary assignment and with the effects associated therewith.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-17

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

An endorsement may even be made in favour of the drawer or any other obligor. These persons may endorse the cheque again.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-18

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The endorsement must be pure and simple. Any condition to which it is made subject is deemed not written.

Partial endorsement is null and void.

Endorsement by the drawee is also null and void.

Endorsement in favour of the bearer is deemed to be a blank endorsement.

Endorsement in favour of the drawee is valid only as a receipt, unless the drawee has several institutions and the endorsement is made in favour of an institution other than that on which the cheque was drawn.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-19

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The endorsement must be written on the cheque or on a sheet of paper attached thereto known as an addendum. It must be signed by the endorser, whose signature is appended either by hand or by any non-manual process.

The endorsement need not necessarily designate the payee, or it may merely consist of the endorser's signature, in which case it is known as a blank endorsement. In this latter case, to be valid, the endorsement must be written on the back of the cheque or on an addendum.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-20

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The endorsement transfers all the rights deriving from the cheque, including ownership of the cover.

If the endorsement is blank, the bearer may:

1. Fill in the blank space with his own name or that of another person;
2. Make another blank endorsement, or endorse the cheque to another person;
3. Pass on the cheque to a third party, without filling in the blank space and without endorsing it.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-21

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Unless otherwise agreed, the endorser is the guarantor of payment.

He may forbid any further endorsement; in which case, he has no liability as guarantor in regard to the persons to whom the cheque is subsequently endorsed.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-22

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The holder of an endorsable cheque is deemed to be the legitimate bearer if he can establish his entitlement through an uninterrupted series of endorsements, even if the last endorsement is blank. Struck-out endorsements are, in this respect, deemed not written. When a blank endorsement is followed by another endorsement, its signatory is deemed to have acquired the cheque via a blank endorsement.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-23

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

An endorsement on a bearer cheque renders the endorser liable under the terms of the provisions which govern recourse and does not convert the instrument into an order cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-24

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

If a person has been dispossessed of an order cheque by some event or other, a payee who establishes his right as indicated in Article L. 131-22 is only required to relinquish the cheque if he acquired it in bad faith, or if, by acquiring it, he was guilty of gross misconduct.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-25

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Persons who are prosecuted in connection with a cheque cannot cite against the bearer objections grounded on their personal relationship with the drawer or with the previous bearers unless the bearer, by acquiring the cheque, knowingly acted to the detriment of the debtor.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-26

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

When the endorsement contains the words "value for collection", "for collection", "by proxy", or any other reference pertaining to a simple power of attorney, the bearer may exercise all the rights deriving from the cheque but may only endorse it as a proxy.

In such cases, the obligors may only invoke objections against the bearer which may be invoked against the endorser.

A power of attorney enshrined in an endorsement by proxy is not extinguished by the death or incapacity of the principal.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-27

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

An endorsement made after a protest or after expiry of the period of validity only produces the effects of an ordinary assignment.

In the absence of proof to the contrary, an undated endorsement is presumed to have been made before the protest or before expiry of the period of validity.

The backdating of orders is prohibited, under pain of them being declared forgeries.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION IV

Avals — Articles L131-28 to L131-30

Article L131-28

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Payment of all or part of a cheque's value may be guaranteed by an aval.

Such a guarantee is provided by a third party, excluding the drawee, or even by a signatory of the cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-29

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The aval is given on the cheque or on an addendum, or via a separate document which indicates the place where it was provided.

It is expressed by the words "approval given" or by any equivalent expression; it is signed by the issuer of the aval.

It is considered to result solely from the issuer of the aval's signature on the face of the cheque, except in cases in which the drawer has signed.

The aval must indicate the person in favour of whom it is given. In the absence of such an indication, it is deemed to have been given for the drawer.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-30

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The issuer of the aval is bound in the same way as the person for whom he is standing guarantor.

His commitment is valid, even if the obligation he has guaranteed proves to be null and void for any reason, with the exception of a legal technicality.

When he pays the cheque, the issuer of the aval acquires the rights which derive from the cheque against the guaranteed party and against those who are bound in relation to the latter by virtue of the cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION V

Presentation and Payment — Articles L131-31 to L131-43

Article L131-31

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Cheques are payable at sight. Any wording to the contrary is deemed not written.

A cheque presented for payment before the day indicated as its date of issue is payable on the day of its presentation.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-32

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A cheque issued and payable in Metropolitan France must be presented for payment within one week.

A cheque issued outside Metropolitan France which is payable in Metropolitan France must be presented within either twenty days or seventy days, depending on whether the place of issue is in Europe or outside Europe.

For application of the previous paragraph, cheques issued in a country which borders the Mediterranean are deemed to be issued in Europe.

The time limits indicated in the second paragraph run from the day shown on the cheque as its date of issue.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-33

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

When a cheque payable in France is issued in a country which uses a calendar other than the Gregorian calendar, the corresponding day of the Gregorian calendar is deemed to be the day of issue.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-34

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Presentation to a clearing house equates to presentation for payment.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-35

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The drawee must pay, even after expiry of the period of validity. He must also pay, even if the cheque was issued in breach of the order contained in Article L. 131-73 or the prohibition contained in the second paragraph of Article L. 163-6.

A stop may be placed on a cheque payment only in the event of a cheque being lost, stolen or used fraudulently, or of the bearer being placed in judicial reorganisation or liquidation. The drawer must immediately confirm the stop in writing by whatever means.

All banks must inform their accountholders in writing of the penalties incurred in the event of a stop being founded on a cause other than those envisaged in the present article.

If, despite this defence, the drawer applies a stop for other reasons, the urgent applications judge must order the lifting of the stop at the bearer's request, even if main proceedings have been initiated.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-36

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Neither the death of the drawer nor his incapacity arising after the cheque is issued shall impede the effects of the cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-37

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The drawee may demand, upon payment of the cheque, that it be returned to him duly receipted by the bearer.

The bearer cannot refuse a partial payment.

If the cover is less than the amount of the cheque, the bearer is entitled to demand payment up to the full amount of the cover.

If partial payment is made, the drawee may demand that such payment be noted on the cheque and that it be given a receipt therefor.

That receipt, issued as a separate document, enjoys the same dispensation from stamp duty as a receipt given on the cheque itself.

Partial payments against the amount of a cheque discharge the drawer and the endorsers.

The bearer is required to have the cheque protested for the surplus.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-38

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

He who pays a cheque without a stop is deemed to be validly discharged.

The drawee who pays an endorsable cheque is obliged to check the validity of the subsequent endorsements, but not the signature of the endorsers.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-39

(Order No. 2005-429 of 6 May 2005 Art. 18 Official Journal of 7 May 2005)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

When it is stipulated that a cheque is payable in a currency which is not legal tender in France, its value may be paid, during the cheque's validity period, at its exchange value in euros on the day of payment. If payment was not effected upon presentation, the bearer may, at his discretion, request that the cheque be paid in a currency which is legal tender in France and at the exchange rate applicable on the day of presentation or that applicable on the day of payment.

The French practice used to determine the exchange rates applicable to foreign currencies in which cheques are drawn must be followed in order to determine the value of those currencies in a currency which is legal tender in France. The drawer may nevertheless stipulate that the sum payable is to be calculated on the basis of a rate specified on the cheque.

These rules do not apply in the event of the drawer making contractual provision for payment to be effected in a foreign currency.

If the amount of the cheque is indicated in a currency having the same name, but a different value, in the country of issue and the country of payment, one is presumed to have referred to the currency of the place of payment.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-40

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

In the event of a cheque being lost, the person to whom it belongs may pursue payment thereof via a second, third or fourth cheque, etc.

If the person who lost the cheque is unable to represent the second, third or fourth cheque, etc., he may apply for and obtain payment of the lost cheque via a court order subject to proving his title thereto through his accounting records and standing surety.

All provisions of the present section which relate to the loss of a cheque apply equally to theft of a cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they

mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-41

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

In the event of an application for payment made by virtue of Article L. 131-40 being refused, the owner of the lost cheque may secure all of his rights via a protest for non-acceptance. The said protest must be made on the first business day following expiry of the period of validity, at the latest. The notices referred to in Article L. 131-49 must be served on the drawer and the endorsers within the time limits laid down in that article.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-42

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

In order to obtain a second cheque, the owner of a lost cheque must contact his immediate endorser, who is required to use his name and his best endeavours when dealing with his own endorser, and thus go from endorser to endorser right back to the drawer of the cheque. The owner of the lost cheque bears the costs.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-43

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The surety commitment referred to in Article L. 131-40 expires after six months if no application has been made and no proceedings have been initiated during that period.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION VI
Crossed Cheques

Articles L131-44 to L131-47

Article L131-44

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The drawer or bearer of a cheque may cross it with the effects indicated in the following article.

The crossing is effected by means of two parallel lines on the face of the cheque. It may be general or special.

The crossing is general if it does not bear a designation or the word "banker" or an equivalent term between the two lines; it is special if the name of a banker is written between the two lines.

A general crossing may be converted into a special crossing, but a special crossing cannot be converted into a general crossing.

Any striking out of the crossing or the designated banker's name is deemed to be null and void.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-45

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The drawee may only pay a cheque with a general crossing to a banker, the head of a Post Office Cheque Centre or a customer of the drawee.

The drawee may only pay a cheque with a special crossing to the designated banker, or, if the latter is the drawee, to its customer. The designated banker may nevertheless encash the cheque with another banker.

A banker may acquire a crossed cheque only from one of its customers, the head of a Post Office Cheque Centre or another banker. It cannot encash it on behalf of any other person or entity.

A cheque bearing more than one special crossing may only be paid by the drawee if there are two crossings, one of which is for encashment by a clearing house.

A banker or drawee who fails to comply with the above provisions is liable in respect of any resultant damage up to the full amount of the cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-46

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Account-only cheques issued abroad which are payable in France are treated as crossed cheques.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-47

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The bearer may exercise his recourse against the endorsers, the drawer and the other obligors if a cheque presented in good time is not paid and if the refusal to pay is recorded in a notarial deed known as a protest.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION VII

Recourse in the event of Non-Payment — Articles L131-48 to L131-55

Article L131-48

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The protest must be made during the period of validity.

If presentation takes place on the last day of that period, the protest may be made on the next business day.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-49

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The bearer must notify the default in payment to his endorser and to the drawer within four business days of the protest being made and, if a cost-free return clause applies, on the day of presentation.

When the cheque indicates the drawer's name and domicile, the notary or bailiff is required to notify the drawer of the reasons for the refusal to pay by registered letter within forty-eight hours of registration, failing which they are liable for compensation. The notary or bailiff charges a fee for such letters.

Each endorser must inform his endorser of the notice he has received within two business days of receiving it, indicating the names and addresses of those who gave the earlier notices, and so on, right back to the drawer. The time limits indicated above run from receipt of the previous notice.

When notice is served on a cheque signatory pursuant to the previous paragraph, the same notice shall be served on his guarantor within the same time limit.

If an endorser has not indicated his address or has indicated it illegibly, it suffices for the notice to have been served on the previous endorser.

He who must serve notice may do so in whatever form, even by simply returning the cheque.

He must prove that he served notice within the time limit. The time limit is deemed to be complied with if the letter serving notice was presented to the Post Office before it expired.

He who fails to serve notice within the time limit indicated above shall not incur forfeiture; he is liable for any damage caused by his negligence, but the compensation shall not exceed the amount of the cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-50

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

By writing the words "return without charge" or "without protest", or any equivalent wording, on the instrument and

signing it, the drawer, an endorser or a guarantor may exempt the bearer from issuing a protest in order to exercise his remedy.

Such wording does not exempt the bearer from presenting the cheque within the time limit set or from serving the requisite notices. The burden of proving non-compliance with the time limit rests with he who raises it against the bearer.

If such wording is used by the drawer, it is binding on all the signatories; if it is used by an endorser or a guarantor, it is binding on that person only. If the bearer issues a protest despite the wording used by the drawer, the costs thereof shall be borne by him. When the wording is used by an endorser or a guarantor, the costs of any protest issued may be recovered from all the signatories.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-51

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

All the persons obligated by virtue of a cheque are jointly and severally liable towards the bearer.

The bearer is entitled to take action against all such persons, individually or jointly, without being required to follow the order in which they are obligated.

The same right is enjoyed by any signatory of a cheque who has paid the cheque.

The bringing of an action against one obligor does not exclude action against the others, including those subsequent to the obligor initially sued.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-52

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The bearer is entitled to claim the following from the person against whom he exercises his remedy:

1. The amount of the unpaid cheque;

2. Interest with effect from the day of presentation at the legal rate applicable in France;

3. The costs of the protest and notices served, as well as the other costs.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-53

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

He who has redeemed the cheque is entitled to claim the following from his guarantors:

1. The total sum he has paid;

2. Interest on the said sum, with effect from the day on which he paid it, calculated at the legal rate applicable in France;

3. The costs he incurred.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-54

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Any obligor against whom a remedy is exercised or who is exposed to a remedy may demand, against payment, the return of the cheque with the protest and a receipt.

Any endorser who has paid a cheque may strike out his endorsement and that of the subsequent endorsers.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-55

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

If presentation of the cheque or submission of the protest within the time limit set is prevented by an insurmountable

obstacle such as a statutory limitation or other instance of force majeure, the time limits are extended.

The bearer is required to notify his endorser of the instance of force majeure without delay and to affix a dated and signed reference to such notification on the cheque or on an addendum; moreover, the provisions of Article L. 131-49 are applicable.

The bearer must present the cheque for payment as soon as the state of force majeure has ceased and, if applicable, have the protest drawn up.

Remedies may be exercised if the force majeure persists after fifteen days have elapsed since the date on which the bearer notified his endorser thereof, even if the period of validity has not expired, without there being any need for presentation or protest, unless those remedies are suspended for a longer period pursuant to Article L. 511-61 of the Commercial Code.

Facts which are purely personal to the bearer or to the person he has entrusted with presentation of the cheque or the drawing-up of the protest are not deemed to constitute instances of force majeure.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION VIII

Cheques drawn in Multiple Originals — Articles L131-56 to L131-57

Article L131-56

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

With the exception of bearer cheques, any cheque issued in one country and payable in another country or in an overseas territory of that same country and vice versa, or issued and payable in the same territory or in various overseas territories of the same country, may be drawn in identical multiple originals. When a cheque is drawn in multiple originals, those originals must be numbered in the text of the instrument itself, failing which each of them is deemed to be a separate cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-57

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Payment of one original constitutes full and final settlement, even if it is not stipulated that such payment cancels the effect of the other originals.

An endorser who has transmitted originals to different persons, and likewise subsequent endorsers, is bound in relation to all originals bearing their signature which have not been returned.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION IX

Alterations — Article L131-58

Article L131-58

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

If the wording of a cheque is altered, the signatories subsequent to such alteration are bound by the terms of the amended text; the previous signatories are bound by the terms of the original text.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION X

Prescription — Articles L131-59 to L131-60

Article L131-59

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Shares brought by the bearer against the endorsers, the drawer and the other obligors lapse six months after expiry

of the period of validity.

Shares brought by the various obligors against each other concerning the payment of a cheque lapse six months after the day on which the obligor paid the cheque or the day on which he himself was sued. An action brought by the bearer of the cheque against the drawee lapses one year after expiry of the period of validity.

In the event of forfeiture or prescription, however, there remains a right to bring an action against a drawer who has not provided the requisite cover or against any obligors who have unjustly benefited from enrichment.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-60

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

In the event of proceedings being initiated, the prescriptions run from the date of the last proceedings brought. They do not apply if a court decision has been given or if the debt has been acknowledged in a separate document.

Interruption of a prescription is effective only against the person in respect of whom it is obtained.

Contending debtors are nevertheless required, if called upon to do so, to formally swear that they are no longer liable, and likewise their widows, heirs or assigns, and that they believe in good faith that they are no longer indebted in any way.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION XI

Protests — Articles L131-61 to L131-68

Article L131-61

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The protest must be executed by a notary or a bailiff at the domicile of the person on whom the cheque was payable, or his last known domicile. If a false indication of domicile is given, the protest is preceded by a search of the premises.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-62

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The deed of protest contains a literal transcription of the cheque and the endorsements, as well as a demand for payment of the amount of the cheque. It states whether the person who must pay was present or absent, the reasons for the refusal to pay and the inability or refusal to sign and, if a part-payment has been made, the amount thereof.

Notaries and bailiffs are required, under pain of compensation, to make a signed and dated reference to the protest on the cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-63

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

No deed emanating from the bearer of the cheque may be substituted for the deed of protest, barring the case envisaged in Articles L. 131-40 to L. 131-43 relating to loss of the cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-64

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Notaries and bailiffs are required, under pain of dismissal, costs, and compensation for the parties, to leave an

exact copy of the protests. Subject to the same penalties, they are also required to file two exact copies of the protests with the registry of the Commercial Court or tribunal de grande instance sitting in a commercial capacity in the debtor's place of domicile and obtain a receipt therefor, or to send two exact copies of the protests thereto by recorded-delivery registered mail, one of these being for the Public Prosecutor's Office; this formality must be completed within two weeks of service.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-65

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The provisions of Articles L. 511-56 to L. 511-61 of the Commercial Code apply to protests issued for failure to pay a cheque.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-66

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

No legal or judicial extension of the time limit is allowed, save for the cases referred to in Article L. 511-61 of the Commercial Code.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-67

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The submission of a cheque in payment which is accepted by a creditor does not entail novation. Consequently, the original debt, with all the guarantees attached thereto, subsists until the cheque is paid.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-68

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Regardless of the formalities applicable to action to enforce a guarantee, the bearer of a protested cheque may, having obtained the judge's permission to do so, effect preventive attachment of the endorsers' personal property.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION XII

Non-Payment and Penalties — Articles L131-69 to L131-87

Article L131-69

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A drawer who issues a cheque which does not bear an indication of the place of issue or is undated, or who affixes a false date thereto, or who draws a cheque on a person other than a banker, is subject to a maximum fine of 6% of the value of the cheque, which fine shall not be less than 0.75 euro.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-70

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Any banker who issues blank cheque forms to his creditors which are payable at his counters must, under pain of a fine of 7.5 euros per offence, indicate on each form the name of the person to whom that form is issued.

Any banker who refuses to pay a cheque correctly presented at one of his counters with adequate cover and no stop placed on it is held liable in respect of any resultant damage suffered by the drawer in regard to both non-fulfilment of his instruction and injury to his reputation.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-71

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Any banker may, on the basis of a reasoned decision, refuse to issue an accountholder with cheque forms other than those which the drawer uses to withdraw funds from the drawee or for certification. He may, at any time, request that forms previously issued be returned. Such return must be requested upon closure of the account.

When they are issued, cheque forms are made available to the accountholder free of charge.

Pre-crossed cheque forms may be issued which bear an express declaration from the banker that renders them untransferable by endorsement other than for the benefit of a credit institution or a similar establishment. The tax authorities may, at any time, request communication of the identity of the persons to whom forms which do not meet this specification are issued, along with the numbers of those forms.

The cheque forms indicate the telephone number of the bank branch or agency at which the cheque is payable.

They also indicate the accountholder's address.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-72

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Cheque forms other than those which the drawer uses to withdraw funds from the drawee or for certification cannot, without prejudice to the provisions of Article L. 131-78 and as provided in that article, be issued to the accountholder or his representative if an instance of non-payment has been recorded against the accountholder owing to lack of adequate cover, unless the accountholder has discharged his obligations under the second, third, fourth, fifth and sixth paragraphs of Article L. 131-73.

The provisions of the present article must be respected by any banker who has refused payment of a cheque on account of inadequate cover and by any banker who has been informed of an instance of non-payment by the Bank of France pursuant to Article L. 131-85.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-73

(Act No. 2001-1168 of 11 December 2001 Art. 15 I 1 and 2 Official Journal of 12 December 2001)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Without prejudice to the provisions of Article L. 312-1 relating to the right to hold an account and obtain basic banking services, the drawee banker may, having informed the accountholder of the consequences of the lack of cover by any appropriate and available means, refuse payment of a cheque on account of inadequate cover. He must instruct the accountholder to return the cheque forms in his and his representatives' possession to all the bankers with whom he holds an account and to issue no further cheques other than those which only allow withdrawal of funds from the drawer by the drawer or those which are certified. The drawee banker shall inform its customer's representatives thereof at the same time.

The accountholder nevertheless recovers the right to issue cheques when, subsequent to receipt of such an instruction following an instance of non-payment, he can show that he has:

1. Paid the amount of the unpaid cheque or provided adequate and available cover for payment thereof through the good offices of the drawee;

2. Paid a discharging penalty in the manner, and subject to the reservations, stipulated in Articles L. 131-75 to L. 131-77.

A certificate of non-payment is issued at the bearer's request after a period of thirty days has elapsed since the first presentation of an unpaid cheque if it was not paid upon its second presentation or if no cover has been provided to enable it to be paid within that same period. The said certificate is issued by the drawee if a further presentation proves

to be fruitless after thirty days.

Effective notification or, failing that, service of the certificate of non-payment on the drawer by a bailiff, constitutes an order to pay.

A bailiff who has not received proof of payment of the amount of the cheque and the fees within fifteen days of receipt of notification or service issues an enforceable instrument without any other formalities or fees.

In any event, the fees of all kinds occasioned by the rejection of a cheque without cover are for the drawer's account. When the amount of the rejected cheque is less than 50 euros, the fees received by the drawee cannot exceed an amount determined by decree.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-74

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Any payment made by the drawer into the account on which the unpaid cheque was drawn is allocated prioritarily to the creation of cover for full payment thereof.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-75

(Act No. 2001-1168 of 11 December 2001 Art. 15 II Official Journal of 12 December 2001)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The discharging penalty that the accountholder must pay to recover the right to issue cheques is calculated on the fraction of the cheque which is not covered. It is set at 22 euros per tranche of 150 euros or tranche fraction without cover, and reduced to 5 euros when the fraction of the cheque which is not covered is below 50 euros.

This penalty is not payable if the accountholder or his representative did not issue another cheque which was rejected through lack of cover during the twelve months preceding the instance of non-payment and can show, within two months of the date of the order referred to in Article L. 131-73, that he paid the amount of the unpaid cheque or provided adequate and available cover for payment thereof through the good offices of the drawee.

The provisions of the previous paragraph apply to all cheques drawn on a single account which are rejected through inadequate cover during the two-month period referred to in that same paragraph.

When the period referred to in the second paragraph expires on a day which is not a business day, it is extended to the next business day.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-76

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The amount of the discharging penalty referred to in Article L. 131-75 is doubled if the accountholder or his representative has already carried out three adjustments enabling him to recover the right to issue cheques pursuant to Articles L. 131-73 and L. 131-75 during the twelve months preceding the instance of non-payment.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-77

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The discharging penalties referred to in Articles L. 131-75 and L. 131-76 are paid to the Trésor public as determined in a Conseil d'Etat decree.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-78

(Act No. 2001-420 of 15 May 2001 Art. 23 I Official Journal of 16 May 2001)

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

An accountholder who has been instructed not to issue cheques recovers that right as soon as he has made an adjustment as determined in Articles L. 131-73 and L. 131-75 to L. 131-77. If he has not made such an adjustment, he does not recover the right to issue cheques until a period of five years has elapsed since the date of the instruction.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-79

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Disputes relating to the prohibition on issuing cheques and the discharging of penalties stipulated by Articles L. 131-75 and L. 131-76 are referred to the civil courts.

Legal shares brought before the civil courts do not have suspensive effect. The court to which the matter is referred may nevertheless order the suspension of the prohibition on issuing cheques in the event of a serious challenge, even in summary proceedings.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-80

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

If a holder of a joint account, with or without joint and several liability, is responsible for the non-payment, the provisions of Articles L. 131-72 and L. 131-73 apply automatically to the holder who has been designated for that purpose by mutual agreement in relation to that account and any other accounts he holds individually. They also apply to the other holders in relation to that account.

If a cheque is rejected on account of inadequate cover and the drawee notes that no accountholder has been designated as indicated in the previous paragraph, the provisions of Articles L. 131-72 and L. 131-73 automatically apply to all the accountholders, both for that account and for any other accounts they might hold individually.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-81

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

I. - Notwithstanding the absence, inadequacy or unavailability of cover, the drawee must pay any cheque:

1. Drawn on a form which it failed to secure return of within the meaning of Article L. 131-73, unless it can show that it implemented the measures referred to in that article;

2. Drawn on a form which it issued in breach of the provisions of Article L. 131-72 and of the third paragraph of Article L. 163-6, or on a form it issued to a new customer who was at that time the subject of a judgement founded on the second paragraph of Article L. 163-6 or a prohibition imposed pursuant to the first paragraph of Article L. 131-73 and whose name was therefore included in the Bank of France's central file of unpaid cheques.

II. - A drawee who refuses to pay a cheque drawn on a form covered in I is jointly and severally liable to pay the compensation awarded to the bearer on account of the non-payment, as well as a sum equal to the amount of the cheque.

A drawee who has refused to pay a cheque must be able to show that it complied with the legal and regulatory prescriptions relating to the opening of an account and the issuing of cheque forms, as well as the legal and regulatory obligations deriving from non-clearance, including the instruction to return cheque forms.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-82

(Amending Finance Act No. 2001-1276 of 28 December 2001 Art. 51 III for 2001 Official Journal of 29 December 2001 effective 1 January 2002)

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Notwithstanding the absence, inadequacy or unavailability of cover, the drawee must pay any cheque in an amount equal to or below 15 euros drawn on a form it has issued, given that, in such cases, the accountholder and the drawee are deemed by law to have entered into an agreement upon issuance of the form which constitutes the opening of an irrevocable credit.

The drawee's obligation deriving from the provisions of the present article is not subject to the prescription in Article L. 131-59; it expires one month after the date of issuance of the cheque. It does not apply to the drawee bank if it is unable to pay a cheque for any reason other than absence or inadequacy of cover.

The provisions of the present article are a matter of public policy.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-83

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

With the exception of the case envisaged in the first paragraph of II of Article L. 131-81, a drawee who has paid a cheque despite the absence, inadequacy or unavailability of cover is subrogated in the rights of the bearer up to the amount of the sum it advanced; it may, to that end, have the absence or inadequacy of the cover formally recorded in an instrument drawn up in the form of a protest.

Failing any automatic deduction from the account and without prejudice to any other legal remedy, it may have a bailiff serve a formal demand on the accountholder to pay it the sum due to it pursuant to the previous paragraph.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-84

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

A drawee who has refused to pay a cheque because of inadequate cover or has closed an account on which cheque forms have been issued or on which a stop has been placed on account of cheques or cheque forms being lost or stolen shall inform the Bank of France thereof.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-85

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The Bank of France informs the institutions and other entities on which cheques may be drawn of instances of uncleared cheques, prohibitions imposed pursuant to Article L. 163-6, and the lifting of prohibitions on the issuing of cheques; it also informs the Public Prosecutor thereof, if so requested.

Only the Bank of France holds centralised records of the data referred to in the previous paragraph.

To facilitate application of the first paragraph, the tax authorities send the Bank of France the information they hold pursuant to Article 1649 A of the General Tax Code which enables it to identify all accounts opened by natural persons or legal entities covered by Article L. 131-72 and the second paragraph of Article L. 163-6 on which cheques may be drawn. They also send it, solely for the purposes of the present section, the information required to identify the holders of those accounts.

It also sends the Public Prosecutor information concerning the offences penalised by the third and fourth paragraphs of Article L. 163-2 and the first and second paragraphs of Article L. 163-7.

The provisions of Article L. 163-11 do not prevent credit institutions from using this information as an element of assessment before granting a loan or opening a line of credit.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-86

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The Bank of France provides information to any person who wishes to verify the validity, in regard to the present section, of a cheque tendered in payment of goods or services. The sources of such requests for information are recorded.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L131-87

(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The present chapter's implementing measures are determined in a Conseil d'Etat decree, as necessary. That decree determines, inter alia, the manner in which the instruction is conveyed to the accountholder and clarifies his rights and obligations and what he must do to regularise his situation. It also determines how the Bank of France meets the obligations incumbent on it pursuant to Articles L. 131-85 and L. 131-86.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

CHAPTER II

Payment Cards — Articles L132-1 to L132-6

Article L132-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any card issued by a credit institution or a public institution or department referred to in Article L. 518-1 which enables its holder to withdraw or transfer funds is a payment card.

Any card issued by a credit institution or a public institution or department referred to in the first paragraph which enables its holder to withdraw funds only is a withdrawal card.

Article L132-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1062 of 15 November 2001 Article 34, Official Journal of 16 November 2001)

An instruction or commitment to pay given by means of a payment card is irrevocable.

A stop may be put on payment only in the event of loss, theft or fraudulent use of the card or the data associated with its use, or of the beneficiary being placed in judicial reorganisation or liquidation.

Article L132-3

(inserted by Order No. 2001-1062 of 15 November 2001 Article 35, Official Journal of 16 November 2001)

In the event of the loss or theft of a card described in Article L. 132-1, the holder shall bear the loss incurred before a stop is applied pursuant to Article L. 132-2, subject to a ceiling which cannot exceed 400 euros. If he acted in a manner which constitutes gross negligence, however, or if, following the loss or theft of the said card, he did not seek to place a stop on payment as soon as possible, bearing in mind his habitual use of the card, the ceiling indicated in the previous sentence is not applicable. The contract between the cardholder and the issuer may nevertheless determine the time limit for effecting a stop beyond which the cardholder is deprived of the benefit of the ceiling provided for in the present paragraph. That period shall not be shorter than two clear days after the loss or theft of the card.

The ceiling referred to in the previous paragraph will be reduced to 275 euros with effect from 1 January 2002 and 150 euros with effect from 1 January 2003.

Article L132-4

(inserted by Order No. 2001-1062 of 15 November 2001 Article 36, Official Journal of 16 November 2001)

The holder of a card of a type referred to in Article L. 132-1 does not incur liability if the contested payment was made fraudulently and remotely without physical use of his card.

Likewise, he does not incur liability in the event of misuse of his card within the meaning of Article L. 163-4 if he was in physical possession of his card when the contested transaction took place.

In the cases envisaged in the two previous paragraphs, if the cardholder contests having made a payment or a withdrawal in writing, the contested sums are recredited to his account by the issuer of the card or are returned, without charges, not later than one month after receipt of that claim.

Article L132-5

(inserted by Order No. 2001-1062 of 15 November 2001 Article 37, Official Journal of 16 November 2001)

In the event of fraudulent use of a card of a type referred to in Article L. 132-1, the issuer of the card shall refund all of the bank charges incurred by the holder.

Article L132-6

(inserted by Order No. 2001-1062 of 15 November 2001 Article 38, Official Journal of 16 November 2001)

The legal time limit during which the holder of a payment card or withdrawal card may make a claim is set at seventy days from the date of the contested transaction. It may be contractually extended, but shall not exceed one hundred and twenty days from the date of the contested transaction.

CHAPTER III

Bank Transfers within the European Economic Area — Article L133-1

Article L133-1

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 2 Official Journal of 2 August 2003)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Credit institutions, investment firms, branches of foreign credit institutions, foreign investment firms and foreign financial institutions located in France, as defined in Article L. 511-21, and, contrary to Article L. 518-1, the Trésor public, the Post Office's financial departments, the Bank of France, the Bank of Issue of the Overseas Departments, the Overseas Bank of Issue and the Caisse des dépôts et consignations, shall comply with the following provisions when processing bank transfers within the European Economic Area denominated in the currency of a European Economic Area Member State on the instructions, or for the benefit of, their customers:

1. Delays in the execution of bank transfers of an amount equal, at most, to a threshold set by order of the Minister for the Economy give entitlement, even in the absence of any fault, and without prejudice to any common-law remedy, within fourteen business days, at most, of execution of the bank transfer, to compensation calculated as indicated in that same order;

2. In the absence of any fault, bank transfers referred to in 1 which are not carried out give rise, within fourteen business days of receipt of a request to that effect, to return of the funds in question to the principal within a time limit, and subject to terms and conditions, laid down by the Minister for the Economy.

Such return is made without prejudice to any available common-law remedy for liability.

3. Return as indicated in 2 is not due if the non-fulfilment is the result of an error or omission of the principal in the instructions given to the institution or is attributable to an intermediary institution chosen by the principal.

In such circumstances, the institutions concerned shall nevertheless use their best endeavours to facilitate the return of the funds in question to the principal;

4. The institution acting for the recipient of the bank transfer is responsible for effecting the return indicated in 2 if the non-fulfilment is attributable to it or to an intermediary institution chosen by it;

5. An order of the Minister for the Economy determines the present article's implementing regulations.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L134-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Letters of exchange are governed by Articles L. 511-1 to L. 511-81 of the Commercial Code.

Article L134-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Promissory notes are governed by Articles L. 512-1 to L. 512-8 of the Commercial Code.

Article L141-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France is an integral part of the European System of Central Banks instituted by Article 8 of the Founding Treaty of the European Community and participates in fulfilment of the missions and complies with the objectives assigned to it by the Treaty.

Within this framework, and without prejudice to the primary objective of price stability, the Bank of France provides support for the Government's general economic policy.

In carrying out the missions it performs on account of its participation in the European System of Central Banks, the Bank of France, in the person of its Governor, its Deputy Governors or another member of the Monetary Policy Committee, may neither solicit nor accept instructions from the Government or from any person.

Article L141-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the conditions determined in the articles of association of the European System of Central Banks, and Article 30 of the memorandum on articles of association of the European System of Central Banks and of the European Central Bank, relating to the transfer of exchange reserve assets to the European Central Bank, and Article 31 of the said

memorandum relating to the management of the exchange reserve assets held by the national central banks, the Bank of France holds and manages the State's gold and currency reserves and enters them on the assets side of its balance sheet pursuant to the terms and conditions of an agreement it enters into with the Government.

Consistent with the provisions of Article 111 of the Founding Treaty of the European Community, and with particular reference to the international organisations within which the Member States may negotiate and to the international agreements they may enter into, and likewise, consistent with Article 6, paragraph 2, of the memorandum on articles of association of the European System of Central Banks and of the European Central Bank relating to the international monetary institutions in which the European Central Bank and, subject to its agreement, the national central banks, are authorised to participate, the Bank of France may, with the consent of the Minister for the Economy, participate in international monetary agreements.

Article L141-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France is prohibited from authorising overdrafts or granting any other type of credit to the Trésor public or to any other public body or undertaking. The direct acquisition of their debt instruments by the Bank of France is also prohibited.

The agreements entered into between the Government and the Bank of France determine, when necessary, the terms of repayment of the advances granted to the Trésor public by the Bank of France prior to 1 January 1994.

The provisions of the first paragraph do not apply to public credit institutions which enjoy the same treatment as private credit institutions in regard to the provision of liquid assets by the Bank of France.

Article L141-4

(Act No. 2001-420 of 15 May 2001 Art. 30 III Official Journal of 16 May 2001)
(Act No. 2001-1062 of 15 November 2001 Art. 39 Official Journal of 16 November 2001)
(Act No. 2001-1168 of 11 December 2001 Art. 27 1 Official Journal of 12 December 2001)
(Order No. 2005-171 of 24 February 2005 Art. 3 Official Journal of 25 February 2005)

I. The Bank of France ensures that the payment systems used in connection with its participation in the European System of Central Banks function correctly and securely, consistent with the proper operation of payment systems as envisaged in Article 105, paragraph 2, of the Founding Treaty of the European Community.

The invocability against third parties and implementation of the rights of the national central banks which are members of the European System of Central Banks and of the European Central Bank in regard to financial instruments, bills, receivables or sums of money pledged, assigned or otherwise provided as a guarantee in their favour are not affected by initiation of the procedures referred to in Book VI of the Commercial Code or any equivalent judicial or amicable procedure based on a foreign legal system, or any civil enforcement proceedings initiated on the basis of French law or a foreign legal system, or the exercise of a right to object.

The Bank of France ensures that the means of payment as defined in Article L. 311-3, other than fiduciary currency, are secure and that the regulations applicable thereto are pertinent. If it considers that any such means of payment offers insufficient guarantees of security, it may recommend that its issuer take all appropriate measures to remedy the situation. If such recommendations are not followed, it may, having obtained the issuer's observations, decide to draft a negative opinion for publication in the Official Journal.

In performing these missions, the Bank of France carries out the necessary inspections and obtains from the issuer or another party involved the relevant information concerning the means of payment and the terminals or other technical devices associated therewith.

A Payment Card Security Monitoring Panel has been established, which is composed of members of Parliament, representatives of the authorities concerned, payment card issuers and traders' and consumers' associations. Among other things, the Payment Card Security Monitoring Panel monitors the data protection measures taken by the issuers and the traders, the compilation of fraud statistics and technological watch in regard to payment cards with the object of providing a means of combating technical attacks on the security of payment cards. The Panel's secretariat is provided by the Bank of France. The President is appointed from among its members. A Conseil d'Etat decree stipulates it composition and its powers.

The Panel draws up an activity report each year which is sent to the Minister for the Economy, Finance and Industry and is communicated to Parliament.

II. - As part of its duties within the European System of Central Banks, and without prejudice to the powers of the Financial Markets Authority and the Banking Commission, the Bank of France oversees the security of the systems used to clear, settle and deliver financial instruments.

Article L141-5

(Order No. 2005-429 of 6 May 2005 Art. 86 II Official Journal of 7 May 2005)

Pursuant to Article 106, paragraph I, of the Founding Treaty of the European Community, which gives the European Central Bank a monopoly regarding authorisation to issue banknotes in the Community, the Bank of France alone is authorised to issue banknotes which are legal tender in Metropolitan France and the Overseas Departments.

It exercises these same powers in Mayotte and Saint Pierre and Miquelon.

When banknotes denominated in francs are withdrawn from circulation, the Bank of France must pay the State the balance not presented at its counters.

The Bank of France is responsible for maintaining the fiduciary currency and providing satisfactory circulation thereof throughout the national territory.

SECTION II
Other General-Interest Missions and Other Activities — Articles L141-6 to L141-9

Article L141-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France also performs other public interest functions.

In this context, the Bank of France provides services which are requested by the Government or delivered to third parties with the latter's agreement.

At the request of the Government or with its agreement, the Bank of France may also provide services for the Government or for third parties. Such services are charged for in order to cover the Bank's costs.

The nature of the services referred to above and the charges applicable to them are determined in agreements entered into by the Bank of France and, depending on the case, the Government or the third parties involved.

Article L141-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the circumstances referred to in the last paragraph of Article L. 141-6, the Bank of France establishes France's balance of payments and external position on behalf of the Government when so instructed by the Minister for the Economy, who publishes that information.

Article L141-8
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The following may hold accounts with the Bank of France:

1. Institutions governed by the provisions of Article L. 511-9;

2. The Trésor public, the Issuing Institution of the Overseas Departments, the Overseas Issuing Institution and the Caisse des dépôts et consignations;

3. Investment service providers governed by Part III of Book V;

4. Foreign central banks and foreign credit institutions;

5. International financial institutions and international organisations;

6. Under conditions determined by the General Council, officials of the Bank of France, and any other person holding customer accounts at the Bank of France as of 6 August 1993;

7. Any other institution or person expressly authorised to open an account with the Bank of France by a decision of the General Council.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L141-9
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France may carry out, for its own account and for third parties, any transaction relating to gold, means of payment or securities denominated in foreign currencies or defined by reference to a weight in gold.

The Bank of France may lend or borrow sums in euros or in foreign currency to and from foreign banks and foreign or international monetary institutions or bodies.

When such transactions are executed, the Bank of France shall request or provide the guarantees which it considers appropriate.

CHAPTER II
Organisation of the Bank — Articles L142-1 to L142-10

SECTION I
Status of the Bank of France — Article L142-1

Article L142-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France is an institution whose capital belongs to the State.

SECTION II
The Monetary Policy Committee — Articles L142-2 to L142-5

Article L142-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Monetary Policy Committee examines monetary movements and analyses the implications of the monetary policy formulated within the framework of the European System of Central Banks.

Within the scope of the European Central Bank's policy and instructions, it stipulates the procedures for buying or

selling, lending or borrowing, discounting or pledging, the repurchasing or reverse repurchasing of receivables and the issuing of interest-bearing notes, as well as the nature and scope of the guarantees associated with the loans granted by the Bank of France.

It may grant temporary powers to the Governor.

Article L142-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Amending Finance Act No. 2002-1576 of 30 December 2002, Article 85 I, Official Journal of 31 December 2002)

The Monetary Policy Committee has four members in addition to the Governor and the two Deputy Governors of the Bank of France.

The said four members are appointed for a term of six years by a Cabinet Decree, without prejudice to the provisions of the fourth and fifth paragraphs of the present article.

They are selected from a list containing three times as many names as there are seats to fill drawn up by mutual agreement, or, failing that, in equal parts, by the President of the Senate, the President of the National Assembly and the President of the Economic and Social Council. It is based on the expertise and professional experience of the proposed members in the monetary, financial or economic spheres. Prior to their presentation to the Government, the lists drawn up to fill the seats indicated in the second paragraph are submitted to the Monetary Policy Committee for an opinion.

Half of the members referred to in the second paragraph are replaced every three years. The members of the Council are replaced at least eight days before their tenure expires. If a member is unable to complete his term of office, he is replaced immediately in the manner described in the previous paragraph. In which case, the member appointed only fulfils his functions for the unexpired portion of the term of office of the person he replaces.

When the first Monetary Policy Committee Meeting is held, the term of office of the six members of the Monetary Policy Committee other than the Governor and Deputy Governors is determined by drawing lots as stipulated in the Conseil d'Etat decree referred to in Article L. 144-4, as three years for two of them, six years for two others and nine years for the remaining two.

The term of office of the members discussed in the second paragraph is not renewable. This rule does not apply, however, to members who have completed a three-year term of office through the effects of the measures indicated in the fifth paragraph or who have replaced a member of the Council for a maximum term of three years as envisaged in the fourth paragraph.

Article L142-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Monetary Policy Committee meets at least once each month when convened by its chairman. The Governor is required to convene it within forty-eight hours of receiving a request to that effect from a majority of its members.

The validity of the Monetary Policy Committee's deliberations is subject to the presence of at least two thirds of the serving members. If this quorum is not achieved, a second meeting of the Monetary Policy Committee convened by the Governor to address the same agenda may validly deliberate without a quorum requirement. The decisions are taken on a majority vote of the members present. In the event of there being a hung vote, the chairman has a casting vote.

The Prime Minister and the Minister for the Economy may attend the meetings of the Monetary Policy Committee without the right of discussion and vote. They may submit any draft resolution for the Council's consideration. In the event of the Minister for the Economy being unable to attend, he may arrange to be represented, should this be necessary, by a person designated by name and specially empowered for that purpose.

The Monetary Policy Committee deliberates on a basis consistent with the independence of its chairman, a member of the Council of Governors of the European Central Bank, and with that institution's rules of confidentiality.

Article L142-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members of the Monetary Policy Committee are bound by professional secrecy.

They may be removed from office ahead of time by a majority decision of the members of the Monetary Policy Committee, excluding the member concerned, ruling on a duly reasoned proposal from the Committee, only if they become incapable of performing their duties or are guilty of serious misconduct.

The functions of the Governor, the Deputy Governors and the other members of the Monetary Policy Committee exclude any other public or private professional activity, salaried or otherwise, with the exception of membership of the Economic and Social Council or, if appropriate, and with the consent of the Monetary Policy Committee, teaching activities or functions performed within international organisations. They cannot assume elective office. If they have civil servant status, they are placed on secondment and cannot elect to be promoted.

A Governor or Deputy Governor who stands down for a reason other than removal from office for serious misconduct shall continue to receive his salary for three years. For other members of the Monetary Policy Committee, that period is limited to one year. During that period, they cannot engage in professional activities without the consent of the Monetary Policy Committee, with the exception of elective public functions or the functions of a member of the Government. In the event of the Monetary Policy Committee authorising professional activities, or of a member assuming elective public functions which are not national in scope, the Council shall determine the conditions under which all or part of their salary may continue to be paid to them.

SECTION III

Article L142-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France is administered by a General Council.

It deliberates on questions relating to the management of the Bank of France's activities other than those which come within the scope of its missions for the European System of Central Banks.

It deliberates on the regulations applicable to its staff. The said regulations are submitted to the appropriate ministers by the Governor of the Bank of France for authorisation.

The General Council also deliberates on equity capital use, prepares the provisional and amending cost budgets, closes off the Bank's balance sheet and accounts and draws up the plans for allocating the profits and fixing the dividend due to the State.

The General Council appoints two auditors entrusted with auditing the accounts of the Bank of France. They are invited to attend the General Council Meeting which approves the accounts for the previous year.

Article L142-7
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Amending Finance Act No. 2002-1576 of 30 December 2002, Article 85 II, Official Journal of 31 December 2002)

The General Council of the Bank of France is composed of the members of the Monetary Policy Committee and an elected representative of the Bank's employees whose duration of tenure is six years.

The validity of the deliberations is subject to at least five members being present.

The decisions are taken on a majority of the members present. In the event of there being a hung vote, the chairman has a casting vote.

The General Council may delegate powers to the Governor of the Bank of France, who may sub-delegate them under conditions determined by the Council.

A censor, or his deputy, designated by the Minister for the Economy, attends the meetings of the General Council. He may submit proposals for resolutions to the Council for deliberation.

The resolutions adopted by the General Council are final unless they are challenged by the censor or his deputy.

SECTION IV
The Governor and Deputy Governors Article L142-8

Article L142-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France is managed by the Governor of the Bank of France.

The Governor chairs the Monetary Policy Committee and the General Council of the Bank of France.

He prepares and implements the decisions of those Councils.

He represents the Bank in its dealings with third parties; he alone signs all agreements on behalf of the Bank.

He makes all appointments within the Bank, without prejudice to the provisions of Article L. 142-3.

The Governor is assisted by a first and a second Deputy Governor. The Deputy Governors perform the duties which are delegated to them by the Governor. In the event of the Governor being absent or indisposed, the Monetary Policy Committee and the General Council are chaired by one of the Deputy Governors specially appointed for that purpose by the Governor.

The Governor and the two Deputy Governors are appointed by a Cabinet Decree for a term of six years, renewable once. The age limit applicable to the exercise of these functions is set at sixty-five years.

SECTION V
The Bank's staff Article L142-9

Article L142-9
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The agents of the Bank of France are bound by professional secrecy.

They cannot take or receive an equity holding or any other interest or remuneration of any kind in return for working for or advising a public or private industrial, commercial or financial entity unless a derogation is granted by the Governor. These provisions do not apply to the production of scientific, literary or artistic works.

SECTION VI
Branches Article L142-10

Article L142-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Branches of the Bank of France participate in the implementation of the bank's assignments. They contribute to maintenance of the fiduciary currency and execution of bank money payments. They also contribute to awareness of the local economic fabric and the dissemination of monetary and financial information. They administer and monitor the records relating to overindebtedness as determined in Article L. 141-6.

In the performance of their duties, they maintain relations with the banks, businesses, chambers of commerce and industry, local authorities and devolved Government departments within their catchment area.

Article L143-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Governor of the Bank of France sends the President of the Republic and Parliament a report at least once each year on the Bank of France's activities, the monetary policy it is pursuing within the framework of the European System of Central Banks and the latter's forecasts.

Pursuant to the provisions of Article 108 of the Founding Treaty of the European Community and the rules of confidentiality of the European Central Bank, the Governor of the Bank of France or the Monetary Policy Committee appears before the finance committees of the two assemblies when so requested, and may ask to appear before them.

The accounts of the Bank of France and the auditors' report are sent to the finance committees of the National Assembly and of the Senate.

Article L144-1
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 79, Official Journal of 2 August 2003)

The Bank of France is authorised to obtain from credit institutions and other financial institutions all the documents it requires to carry out the assignments referred to in Section 1 of Chapter I of the present Part. It may make direct contact with companies and professional groups which are prepared to participate in its inquiries.

The Bank of France may pass on some or all of the information that it holds concerning companies' indebtedness to the other central banks which are members of the European System of Central Banks, to the other institutions in a European Union Member State which are responsible for carrying out assignments similar to those entrusted to the Bank in France, and to credit institutions and other financial institutions located in a European Union Member State, subject to reciprocity.

Article L144-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France's transactions and the activities referred to in the second paragraph of Article L. 142-6 are governed by the civil and commercial legislation.

Article L144-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The administrative courts hear cases relating to the Bank of France's internal administration or between the Bank and members of the Monetary Policy Committee, members of the General Council or its agents.

Article L144-4
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree sets forth the present Part's implementing regulations.

It determines the amount of the Bank of France's capital, the procedures for establishing its annual budget, for financing its investments, for presenting and approving the accounts, for allocation of the annual profits and for remuneration of the members of the Monetary Policy Committee and the General Council, as well as the procedures for electing the Bank of France's employees' representative on the General Council.

Article L151-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Financial dealings between France and foreign countries are unrestricted.

This freedom is enjoyed subject to the procedures described in the present Chapter, in keeping with the international undertakings given by France.

Article L151-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In order to defend the national interest, the Government may, via a decree enacted on the basis of a report from the Minister for the Economy:

1. Make the following subject to declaration, prior authorisation or inspection:

a) Foreign exchange transactions, capital movements and settlements of all kinds between France and foreign

countries;

b) The establishment, change of composition and disposal of French assets abroad;

c) The establishment and disposal of foreign investments in France;

d) Gold imports and exports and all other material movements of assets between France and foreign countries;

2. Order the repatriation of foreign receivables outside the European Community resulting from exports of goods, payment for services and, more generally, any foreign revenue or income;

3. Authorise intermediaries to carry out the transactions referred to in 1. a) and d) above.

Article L151-3

(Act No. 2003-706 of 1 August 2003 Art. 78 Official Journal of 2 August 2003)
(Act No. 2004-1343 of 9 December 2004 Art. 30 Official Journal of 10 December 2004)

I. - Foreign investment in any activity in France which, even if only occasionally, participates in the exercise of public authority or pertains to one of the following domains is subject to prior approval from the Minister for the Economy:

a) Activities likely to jeopardise public order, public safety or national defence interests;

b) Research in, and production or marketing of, arms, munitions, or explosive powders or substances.

A Conseil d'Etat decree specifies the nature of the above activities.

II. - The approval given may have special conditions attached to it to ensure that the planned investment does not jeopardise the national interests referred to in I.

The decree referred to in I specifies the conditions which may be attached to the approval.

III. - If the Minister for the Economy finds that a foreign investment is being, or has been, made in violation of the prescriptions of I or II, he may order the investor to desist from proceeding with the transaction, to alter the nature thereof or to restore the status quo ante at his own expense.

Such an order cannot be given until formal notice has been served on the investor to make his observations known within fifteen days.

If the aforementioned order is not complied with, the Minister for the Economy may, having given the investor an opportunity to present his observations on the allegations against him within a time limit of at least fifteen days, and without prejudice to restoration of the status quo ante, impose a financial penalty on him the amount of which shall not be more than double that of the irregular investment. The amount of the financial penalty shall be proportional to the seriousness of the violations committed. The amount of the penalty is recovered in the same way as the State's foreign tax and property debts.

Such decisions qualify for a remedy of full jurisdiction.

The decree referred to in I determines the implementing regulations of III.

Article L151-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any undertaking, agreement or contractual clause which directly or indirectly gives rise to a foreign investment in an activity referred to in I of Article L. 151-3 when that investment has not received the prior authorisation required under c) of 1. of Article L. 151-2 is null and void.

CHAPTER II
Reporting Obligations

Articles L152-1 to L152-6

Article L152-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Amending Finance Act No. 2001-1276 of 28 December 2001 Article 51 III, Official Journal of 29 December 2001 effective 1 January 2002)

Natural persons who transfer money, securities or assets abroad, or from abroad, without dealing through a credit institution, or an institution or department referred to in Article L. 518-1, must make a declaration as determined by decree.

A declaration is made for each transfer, apart from transfers of amounts below 7,600 euros.

Article L152-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Natural persons, associations, and non-commercial societies who/which are domiciled or established in France are subject to the provisions of the second paragraph of Article 1649 A of the General Tax Code.

Article L152-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Credit institutions and the institutions and departments referred to in Article L. 518-1 must inform the tax and customs authorities, when so requested, of the date of transfer and the amount of the sums transferred abroad by the persons indicated in Article L. 152-2, with identification of the initiator of the transfer and the beneficiary and the references of the relevant accounts in France and abroad. These provisions also apply to transactions executed on non-resident accounts for those persons.

The institutions referred to in the first paragraph are required, as determined in Article L. 102 B of the Book of Fiscal Procedures, to retain all documents, information, data or processing details pertaining to the transfers referred to in the previous paragraphs.

On advice from the National Commission for Information Technology and Freedom of Information, a Conseil d'Etat decree may determine a set of specific rules applicable to the storage and dissemination of the information held by the institutions referred to in the first paragraph.

Article L152-4

(Act No. 2004-204 of 9 March 2004 Art. 33 V Official Journal of 10 March 2004 effective 1 October 2004)
(Order No. 2005-1512 of 7 December 2005 Art. 24 III Official Journal of 8 December 2005 effective 1 January 2006)

I. - Failure to discharge the obligations imposed by Article L. 152-1 regarding the submission of declarations incurs a fine equal to one quarter of the sum to which the offence or attempted offence relates.

II. - In the event of customs officers discovering an offence referred to in I, they shall confiscate the entire sum to which the offence or attempted offence relates for a period of three months, which period may be renewed with authorisation from the Public Prosecutor of the place where the customs authority handling the case is located but shall not exceed a total period of six months.

The sum confiscated is duly attached, and forfeiture thereof may be pronounced by the competent court if, during the period of confiscation, it is established that the perpetrator of the offence referred to in I is or was in possession of objects which give grounds for thinking that he is or was the perpetrator of one or more offences envisaged and rendered illegal by the Customs Code, or that he is participating or has participated in the commission of such offences, or if there are plausible reasons for thinking that the perpetrator of the offence referred to in I has committed one or more offences envisaged and rendered illegal by the Customs Code or that he has participated in the commission of such offences.

Dismissal of the charges or acquittal and discharge automatically entails the lifting of the confiscation and attachment measures imposed, with the Trésor public meeting the cost thereof. The same applies in the event of extinction of an action seeking application of tax penalties.

III. - Detection, recording and prosecution of the offences referred to in I take place as determined in the Customs Code.

If the fine envisaged in I is imposed, the 40% increase referred to in the first paragraph of Article 1758 of the General Tax Code is not applied.

Article L152-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Violations of the provisions of Article L. 152-2 incur a fine of 750 euros per undeclared account.

Article L152-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Institutions which fail to respect the obligations imposed by Article L. 152-3 are liable to a fine equal to 50% of the amount of the undeclared sums. If the taxpayer can show that the Trésor public has not suffered any damage, the level of the fine is reduced to 5% and the amount thereof is subject to a ceiling of 750 euros for a first offence.

The offence is recorded and the fine is collected, guaranteed and contested in the manner stipulated for breaches of the provisions relating to the tax authorities' right to discovery referred to in Article L. 152-3.

Article L153-1

(inserted by Act No. 2005-842 of 26 July 2005 Art. 51 Official Journal of 27 July 2005)

Assets of whatever kind, including exchange-reserve assets, which foreign central banks or foreign monetary authorities hold or manage for their own account or on behalf of the foreign State(s) that govern them cannot be attached.

As an exception to the provisions of the first paragraph, a creditor holding a writ of execution establishing a certain and payable debt may request the enforcement judge to authorise enforcement as provided for in Act No. 91-650 of 9 July 1991 reforming the civil enforcement procedures if he can establish that the assets held or managed by a foreign central bank or a foreign monetary authority for its own account form part of resources allocated to a primary activity governed by private law.

Article L161-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Non-compliance with the obligations imposed by Article L. 112-8 shall be punished by a fine of 15,000 euros.

CHAPTER II

Counterfeit Money — Articles L162-1 to L162-2

Article L162-1

(Order No. 2005-429 of 6 May 2005 Art. 19, Art. 20 Official Journal of 7 May 2005)

Counterfeiting and forgery of metallic coins and banknotes, as well as the conveying, distribution and holding of counterfeit or forged metallic coins and banknotes with the intention of passing them into circulation are penalised by Articles 442-1 to 442-15 of the Penal Code.

Article L162-2

(Order No. 2005-429 of 6 May 2005 Art. 19 Official Journal of 7 May 2005)

Whoever has received counterfeit or forged banknotes or metallic coins has an obligation to submit them, or to arrange submission thereof, to the Bank of France in the case of banknotes, and to the Metallic Coins and Medals Administration in the case of metallic coins.

The Bank of France and the Metallic Coins and Medals Administration are authorised to hold and, if need be, destroy any banknotes and metallic coins which they declare to be counterfeit or forged.

CHAPTER III

Offences relating to Cheques and Payment Cards — Articles L163-1 to L163-12

Article L163-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of a drawee refusing to pay a cheque on the grounds that the drawer has placed a stop on it, save for the cases referred to in the second paragraph of Article L. 131-35, shall be punished by a fine of 6,000 euros.

Article L163-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Whoever, having issued a cheque, withdraws all or part of the cover for that cheque via a bank transfer or by any other means with the intention of prejudicing the rights of others, or forbids payment by the drawee in those same circumstances, shall incur a term of five years' imprisonment and a fine of 375,000 euros.

The same sentence shall apply to whoever knowingly agrees to receive or endorse a cheque issued in the circumstances described in the previous paragraph.

The same sentence shall apply to whoever issues one or more cheques in violation of an order made against him pursuant to Article L. 131-73.

The same sentence shall apply to an agent who knowingly issues one or more cheques which his principal was prohibited from issuing pursuant to Article L. 131-73.

For the preparation, examination, pre-trial investigation and judgement of the offences referred to in the previous paragraphs, the court of the place where the cheque is payable shall have jurisdiction, without prejudice to application of Articles 43, 52 and 382 of the Code of Criminal Proceedings.

Article L163-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Whoever commits the following offences shall be punished by seven years' imprisonment and a fine of 750,000 euros:

1. Counterfeiting or forging a cheque;
2. Knowingly using or attempting to use a counterfeit or forged cheque;
3. Knowingly agreeing to accept a counterfeit or forged cheque.

Article L163-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties imposed by Article L. 163-3 also apply to whoever:

1. Counterfeits or forges a payment card or withdrawal card;
2. Knowingly attempts to use a counterfeit or forged payment card or withdrawal card;
3. Knowingly agrees to accept a payment made using a counterfeit or forged payment card or withdrawal card.

Article L163-4-1

(inserted by Order No. 2001-1062 of 15 November 2001 Article 40, Official Journal of 16 November 2001)

Whoever manufactures, acquires, stores, transfers or offers to make available equipment, instruments, computer programs or any data designed or specially adapted to commit the offences envisaged in 1 of Article L. 163-3 and 1 of Article L. 163-4 shall incur a term of seven years' imprisonment and a fine of 750,000 euros.

Article L163-4-2

(inserted by Order No. 2001-1062 of 15 November 2001 Article 40, Official Journal of 16 November 2001)

Any attempt to commit the offences envisaged in 1 of Article L. 163-3, 1 of Article L. 163-4 and Article L. 163-4-1 shall incur the same sentence.

Article L163-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1062 of 15 November 2001 Article 42, Official Journal of 16 November 2001)

The confiscation and destruction of counterfeit or forged cheques and payment cards or withdrawal cards is compulsory in the cases envisaged in Articles L. 163-3 to L. 163-4-1. Confiscation of the materials, machinery, apparatus, instruments, computer programs and any data which was used or was intended to be used for the manufacture of the said objects is also compulsory, unless they were used without the owner's knowledge.

Article L163-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1062 of 15 November 2001 Article 43, Official Journal of 16 November 2001)

In all the cases envisaged in Articles L. 163-2 to L. 163-4-1 and L. 163-7, the court may impose the loss of civic, civil and family rights as provided for in Article 131-26 of the Penal Code, as well as a ban on the exercising of a professional or commercial activity, for a maximum period of five years, pursuant to the provisions of Articles 131-27 and 131-28 of the Penal Code.

Article L163-7

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Whoever issues one or more cheques in breach of a prohibition imposed pursuant to Article L. 163-6 shall incur a term of five years' imprisonment and a fine of 375,000 euros.

The same sentence shall apply to an agent who knowingly issues one or more cheques which his principal was prohibited from issuing pursuant to Article L. 163-6.

For the preparation, examination, pre-trial investigation and judgement of the offences referred to in the previous paragraphs, the court of the place where the cheque is payable shall have jurisdiction, without prejudice to application of Articles 43, 52 and 382 of the Code of Criminal Proceedings.

Article L163-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

For application of the provisions relating to recidivism, all offences penalised by Articles L. 163-2, L. 163-3 and L. 163-7 are deemed to constitute a single offence.

Article L163-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When criminal proceedings are initiated against the drawer, it is admissible for the bearer taking civil action to seek from the criminal court judges a sum equal to the amount of the cheque, without prejudice, if appropriate, to any damages. He may nevertheless bring proceedings to obtain payment of his debt before the civil courts or the commercial courts, if he prefers.

If civil action is not instituted and if proof of payment of the cheque cannot be adduced from the elements introduced into the proceedings, the criminal court judges may, even as a matter of course, order the drawer to pay the beneficiary, in addition to the costs of complying with the judgment, a sum equal to the amount of the cheque, and, if appropriate, interest with effect from the day of presentation pursuant to Article L. 131-52 and the charges resulting from the non-payment, if the cheque has not been endorsed and this is not a consequence of collection procedures and the original thereof is in the case file. When the provisions of the present paragraph are applied, the beneficiary may obtain an enforceable copy of the decision in the same way as a party who has filed a civil action.

Article L163-10

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The following offences committed by the drawee shall incur a fine of 12,000 euros:

1. Indicating cover lower than the cover actually available;

2. Rejecting a cheque for insufficiency or unavailability of cover without indicating, when such is the case, that the cheque was issued in violation of an order made pursuant to Article L. 131-73 or in violation of a prohibition imposed pursuant to Article L. 163-6;

3. Failure to declare, contrary to a Conseil d'Etat decree, instances of non-payment, and also the offences referred to in the third paragraph of Article L. 163-2 and the first and second paragraphs of Article L. 163-7;

4. Contravening the provisions of Articles L. 131-72, L. 131-73 and the third paragraph of Article L. 163-6.

Article L163-10-1

(inserted by Order No. 2001-1062 of 15 November 2001 Article 44, Official Journal of 16 November 2001)

Legal entities may be declared criminally liable for the offences indicated in Articles L. 163-2 to L. 163-4-1, L. 163-7 and L. 163-10, as determined in Article 121-2 of the Penal Code.

The penalties thus incurred by the legal entities are:

1 A fine as provided for in Article 131-38 of the Penal Code.

2 The penalties referred to in Article 131-39 of that same Code.

The disqualification referred to in 2 of Article 131-39 of the Penal Code relates to the activity in connection with which the offence was committed.

Article L163-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Whoever commits the following offences shall incur the penalties imposed by Article 226-21 of the Penal Code:

1. Using the information stored by the Bank of France pursuant to the first paragraph of Article L. 131-85 for purposes other than those intended by Articles L. 131-1 to L. 131-88 relating to cheques and Articles L. 132-1 and L. 132-2 relating to payment cards;

2. Storing the information referred to in the first paragraph of Article L. 131-85 in place of the Bank of France.

Article L163-12

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Whoever disseminates or holds information obtained pursuant to Article L. 131-86 shall incur the penalties imposed by Article 226-21 of the Penal Code.

Article L164-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any member of the Monetary Policy Committee who violates the professional secrecy instituted in the first paragraph of Article L. 142-5 shall incur the penalties imposed by Article 226-13 of the Penal Code, without prejudice to the exceptions provided for in Article 226-14 of the Penal Code.

Article L164-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any agent of the Bank of France who violates the professional secrecy instituted in the first paragraph of Article L. 142-9 shall incur the penalties imposed by Article 226-13 of the Penal Code, without prejudice to the exceptions provided for in Article 226-14 of the Penal Code.

Article L165-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Breaches of the obligations referred to in Article L. 151-2 are penalised pursuant to Article 459 of the Customs Code. The provisions of Article 451 of the Customs Code are also applicable.

Article L211-1

(Act No. 2003-706 of 1 August 2003 Art. 65 2, Art. 91 1 Official Journal of 2 August 2003)
(Order No. 2004-330 of 15 April 2004 Art. 2 Official Journal of 17 April 2004)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

I. - Financial instruments include:

1. Shares and other instruments which give, or could give, direct or indirect access to the capital or voting rights, and which are transferable by book entry or delivery;

2. Debt instruments, each of which represents a right against the legal entity or securitisation fund which issues them, and which are transferable by book entry or delivery, with the exception of bills of exchange and certificates of deposit;

3. Unit trust units or shares;

4. Financial futures;

5. All financial instruments equivalent to those referred to in the previous paragraphs issued on the basis of foreign

laws.

II. - Financial futures are:

1. Financial futures contracts on all bills, transferable securities, indexes or currencies, including equivalent instruments giving rise to a cash settlement;

2. Interest-rate futures contracts;

3. Swaps;

4. Financial futures on all commodities or greenhouse gas emission quotas, either when they are subject, after trading, to registration by a financial instruments clearing house or to periodic cover requirements, or when they offer the option of non-delivery of the underlying commodities in return for monetary settlement by the seller;

5. Buying or selling options for financial instruments;

6. All other futures market instruments.

III. - Financial instruments may be issued only by the State, a legal entity, a unit trust, a property bond fund or a securitisation fund.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

SECTION II
General Regulations applicable to Transferable Securities — Articles L211-3 to L211-2

Article L211-2

(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Transferable securities are securities issued by public or private legal entities which are transferable by book entry or delivery and which confer identical rights per category and give direct or indirect access to a portion of the issuing legal entity's capital or a chose in action against its assets.

Units in unit trusts, property bond funds and securitisation funds are also transferable securities.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Subsection 1
Procedural Conditions — Article L211-3

Article L211-3

(Order No. 2004-604 of 24 June 2004 Art. 52 I Official Journal of 26 June 2004)

Joint-stock companies may issue transferable securities as provided for in Article L. 228-1 of the Commercial Code.

Subsection 2
Registration — Articles L211-4 to L211-4-1

Article L211-4

(Order No. 2004-604 of 24 June 2004 Art. 52 II Official Journal of 26 June 2004)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Transferable securities issued on French soil under French legislation, regardless of their form, must be entered in accounts maintained by the issuer or an authorised intermediary.

The securities of joint-stock companies which are not admitted to trading on a regulated market, with the exception of unit trust units or the units of investment trusts investing primarily in real property, must be entered in an account maintained by the issuer at its premises in the name the holder of the securities.

Notwithstanding the obligations of the preceding paragraph, when securities are handled by a central custodian they may be entered in the books of an authorised intermediary if the articles of association of the issuing legal entity make provision therefor in the case of capital securities, or, for other securities, if the issuance contract so provides. The central custodian is subject to the obligations referred to in Chapter II of Part VI of Book V.

These provisions do not apply to bonds redeemable by numerical drawing of lots issued before 3 November 1984. Nor do they apply to registered non-redeemable government loans issued before that date.

The holders of transferable securities issued before that same date cannot exercise the rights attached to their securities unless they have been presented to the issuer or to an authorised intermediary for entry in an account. With effect from 3 May 1988, under conditions specified by decree, the issuers must sell the rights corresponding to the transferable securities which have not been presented. The proceeds of the sale are held pending possible restitution to the assigns.

If the companies referred to in the second paragraph cannot show that they used their best endeavours to ensure effective application of the present provisions, their managers and the chairman of the Board of Directors or of the Executive Board are presumed for the purposes of inheritance tax and wealth tax, in the absence of proof to the contrary, to have title to the transferable securities which were not presented or were not sold as stipulated in the

previous paragraph.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L211-4-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 21 I Official Journal of 7 May 2005)

No attachment or sequestering of current accounts relating to transferable securities entered in the books of a central custodian is allowed.

No enforcement measure or protective measure against an authorised intermediary referred to in Article L. 542-1 is allowed in respect of financial instruments entered in an account opened in his name in the books of another authorised intermediary if they belong to his clients.

Article L211-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The reporting obligations concerning the holders of instruments are laid down in Article L. 228-2 of the Commercial Code.

Article L211-6

(inserted by Order No. 2005-429 of 6 May 2005 Art. 22 Official Journal of 7 May 2005)

In the event of a judicial reorganisation or liquidation procedure being initiated against the book-keeping institution, the receiver or the liquidator, acting jointly with the provisional administrator or liquidator, if any, appointed by the Banking Commission, shall verify, for each financial instrument individually, that the number of securities held in a current account with a central custodian or with another intermediary on behalf of the defaulting intermediary, regardless of the nature of the accounts opened with them, is sufficient to enable the intermediary to meet its obligations towards the holders of the rights in the financial instruments registered in its books. In the event of the number of securities held being insufficient, an allocation of securities shall be made among the holders of the rights in proportion to the securities made available, financial instrument by financial instrument; their owners may arrange to have them credited to an account kept by another intermediary or by the issuing legal entity.

They are exempted from making the declaration referred to in Article L. 621-43 of the Commercial Code in respect of the debt corresponding to the financial instruments which have not been made available to the rightholders due to there being an insufficient number thereof on hand with the central custodian.

The bankruptcy judge is informed of the result of the audit carried out by the receiver or the liquidator and, if applicable, the proportionate allocation of securities and the bank transfers made at the owners' request.

Article L212-1

(Order No. 2004-604 of 24 June 2004 Art. 28, Art. 52 III, IV Official Journal of 26 June 2004)

The different types of shares are described in Article L. 228-7 of the Commercial Code, reproduced hereunder:

"Art. L. 228-7. - Shares issued for cash are those which are fully paid up in cash or through compensation, those which are issued following a capitalisation of reserves, profits or issue premiums, and those having a face value derived partly from a capitalisation of reserves, profits or issue premiums and partly from a cash payment. The latter must be fully paid up on subscription.

Without prejudice to the specific rules applicable to shares resulting from a merger or a demerger, all other shares are issued for a contribution in kind."

Article L212-2

(Order No. 2004-604 of 24 June 2004 Art. 52 III, IV Official Journal of 26 June 2004)

Shares issued for cash come under the provisions of Article L. 228-9 of the Commercial Code, reproduced hereunder:

"Art. L. 228-9. - A share issued for cash is registered until it is fully paid up."

Article L212-3

(Order No. 2004-604 of 24 June 2004 Art. 52 III, IV, V Official Journal of 26 June 2004)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

I. - Without prejudice to the provisions of the third paragraph of Article L. 211-4, the shares of joint-stock companies issued on French soil under French legislation which are not admitted to trading on a regulated market, excluding unit trusts and investment trusts investing primarily in real property, must be registered.

II. - This requirement must be met within six months of the date of issue of the shares concerned or of the date on which they ceased to be admitted to the safekeeping of a central custodian.

When this period has elapsed, shareholders who do not fulfil the obligation stipulated in I cannot exercise the rights attached to those securities unless they have been presented to the issuer or to an authorised intermediary for registration.

III. - The issuing companies must, within one year of expiry of the time limit indicated in II, sell the rights corresponding to the shares which have not been presented, as determined by decree. The proceeds of the sale are held pending possible restitution to the assigns.

IV. - If they cannot show that they used their best endeavours to ensure effective application of the present provisions, the issuing company's managers and the chairman of the Board of Directors or of the Executive Board are presumed for the purposes of inheritance tax and wealth tax, in the absence of proof to the contrary, to have title to any transferable securities which were not in registered form or were not sold as stipulated in III.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L212-4

(Order No. 2004-604 of 24 June 2004 Art. 52 III, IV Official Journal of 26 June 2004)

The obligation for certain shares to be in registered form is deemed to be fulfilled when the conditions laid down in Article L. 228-2 of the Commercial Code are met.

Subsection 3
Preference Shares — Article L212-5

Article L212-5

(Order No. 2004-604 of 24 June 2004 Art. 52 III, IV, VI Official Journal of 26 June 2004)

The rules relating to the creation of preference shares are laid down in Articles L. 228-11 to L. 228-20 of the Commercial Code.

Subsection 4
Preferential-Dividend Shares — Articles L212-6 to L212-6-4

Article L212-6

(Order No. 2004-604 of 24 June 2004 Art. 52 III, IV, VII Official Journal of 26 June 2004)

The rules relating to the creation of preferred shares are laid down in Articles L. 228-29-8 to L. 228-29-10 and L. 228-35-1 of the Commercial Code.

Article L212-6-1

(inserted by Order No. 2004-604 of 24 June 2004 Art. 52 VII Official Journal of 26 June 2004)

The rules relating to the creation of preferred dividend shares without voting rights are laid down in Articles L. 228-29-8 to L. 228-29-10 and L. 228-35-2 to L. 228-35-11 of the Commercial Code.

Article L212-6-2

(inserted by Order No. 2004-604 of 24 June 2004 Art. 52 VII Official Journal of 26 June 2004)

The rules relating to investment certificates and voting right certificates are determined by the provisions of Articles L. 228-29-8 to L. 228-35 of the Commercial Code.

Article L212-6-3

(inserted by Order No. 2004-604 of 24 June 2004 Art. 52 VII Official Journal of 26 June 2004)

In order to ensure equality among the holders of share certificates or voting right certificates and transparency of the market, the General Regulations of the Financial Markets Authority stipulate:

1 The conditions applicable to takeover bids and public withdrawal offers relating to share certificates or voting right certificates admitted to trading on a regulated market or which have ceased to be admitted to trading on a regulated market, when the majority shareholder(s) of the company that issued those certificates hold(s), individually or jointly, within the meaning of Article L. 233-10 of the Commercial Code, a given fraction of the capital and voting rights;

2 The conditions under which share certificates or voting right certificates not presented by their holders after a takeover bid or public withdrawal offer, if they no longer represent more than 5% of the capital or voting rights, are transferred to the majority shareholders at their request, and the holders are compensated therefor.

Article L212-6-4

(inserted by Order No. 2004-604 of 24 June 2004 Art. 52 VII Official Journal of 26 June 2004)

When 2 of Article L. 212-6-3 is implemented, the valuation of the instruments is made in accordance with the objective methods applied in the event of a transfer of assets and takes account of the value of the assets, the profits realised, the market value, the existence of subsidiaries and the commercial prospects based on a weighting appropriate to each case. The compensation is equal, per instrument, to the result of the aforementioned valuation or, if it is higher, to the price proposed for the takeover bid or public withdrawal offer. The amount of the compensation due to unidentified holders is consigned.

SECTION II
Securities Giving Access to Capital — Article L212-7

Article L212-7

(Order No. 2004-604 of 24 June 2004 Art. 52 VIII Official Journal of 26 June 2004)

The rules relating to the issuing of securities giving access to the capital and the holders of such securities are laid down in Articles L. 228-91 to L. 228-106 of the Commercial Code relating to transferable securities giving access to the capital.

SECTION III
Special Stock-Subscription Schemes for Employees — Articles L212-13 to L212-17

Subsection 1
Voluntary and Mandatory Employee Profit Sharing — Articles L212-13 to L212-14

Article L212-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules relating to voluntary profit-sharing for a company's employees are contained in Chapter I of Part IV of Book IV of the Labour Code.

Article L212-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules relating to compulsory profit-sharing for a company's employees are contained in Chapter II of Part IV of Book IV of the Labour Code.

Subsection 2
Capital Increases — Article L212-15

Article L212-15

(Order No. 2005-429 of 6 May 2005 Art. 23 Official Journal of 7 May 2005)

Companies may increase their capital by issuing shares reserved for employees under the terms and conditions laid down either in Articles L. 225-187 to L. 225-197 of the Commercial Code or in Articles L. 443-5 of the Labour Code and L. 225-138-1 of the Commercial Code.

Subsection 3
Stock Options — Article L212-16

Article L212-16

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Options giving entitlement to subscribe to or purchase shares may be granted under the terms and conditions laid down in Articles L. 225-177 to L. 225-186 of the Commercial Code.

Subsection 4
Founder's Share Warrants — Article L212-17

Article L212-17

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Founder's share warrants may be allocated under the terms and conditions laid down in Article 163a G of the General Tax Code.

CHAPTER III
Debt Instruments — Articles L213-1 to L213-35

SECTION I

Article L213-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Negotiable debt instruments are instruments issued at the discretion of the issuer and are tradable on a regulated market or an over-the-counter market, each of which represents a right for a fixed term.

Article L213-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Negotiable debt instruments are stipulated in bearer form.

They are entered in accounts maintained by an authorised intermediary.

The pledging of negotiable debt instruments takes place pursuant to the provisions of Article L. 431-4.

In the event of the property of an account-keeping financial intermediary being placed in judicial receivership, the holders of the negotiable debt instruments entered in the books have all of their rights transferred to an account maintained by another authorised intermediary; the judge-receiver is informed of that bank transfer. In the event of there being an insufficient number of entries, they make a declaration to the creditors' representative for the remainder of their rights.

Article L213-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 25 I and II, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 36 I, Article 37, Article 46 VI 1, Official Journal of 2 August 2003)

The following are authorised to issue negotiable debt instruments:

1. Credit institutions, investment firms and the Caisse des dépôts et consignations, subject to compliance with the conditions laid down for this purpose by the Minister for the Economy;

2. Companies other than those referred to in 1, subject to them meeting the conditions relating to legal status, capital and auditing that are required of them for a public offering, or equivalent conditions for companies having their registered office abroad;

3. Economic interest groups and general partnerships made up entirely of joint-stock companies that meet the conditions laid down in 2;

4. Institutions of the European Community and the international organisations;

5. The social security sinking fund established by Article 1 of Order No. 96-50 of 24 January 1996 to redeem the social security debt.

6. Local authorities and their groupings.

7. Associations governed by the Act of 1 July 1901 relating to association agreements or by Articles 21 to 79 of the Local Civil Code applicable in the Departments of Bas-Rhin, Haut-Rhin and Moselle and which meet the conditions laid down for the issue of bonds through public offerings;

8. States;

9. Securitisation funds.

A decree lays down the conditions that the issuers referred to in 2, 3, 4, 5, 6, 7, 8 and 9 must meet and determines the conditions of issue for negotiable debt instruments.

Article L213-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 36 II, Official Journal of 2 August 2003)

Prior to their first issue of negotiable debt instruments, the issuers produce financial documentation which describes their activities, their economic and financial situation and their issue programme. That financial documentation, drafted in French, is filed with the Bank of France, which is entrusted with ensuring that the issuers comply with the conditions of issue stipulated in Article L. 213-3. A decree determines the present article's implementing legislation and the cases and conditions in which the financial documentation may be drafted in a language widely used in financial dealings other than French.

Article L213-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Bonds are tradable instruments which, within a single issue, confer the same creditor's rights for the same par value.

Article L213-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 134 II, Official Journal of 2 August 2003)

The issue of prize bonds must be authorised by the law.

Any issue made in breach of the provisions of the present article is null and void. Without prejudice to action for damages brought against the company's officers, the Public Prosecutor and any interested party may bring an action for voidance.

Subsection 2
Bonds Issued by Economic Interest Groups — Article L213-7

Article L213-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The economic interest group may issue bonds as provided for in Article L. 251-7 of the Commercial Code.

Subsection 3
Bonds Issued by Associations — Articles L213-8 to L213-18-1

Article L213-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

If the associations governed by the Act of 1 July 1901 relating to association agreements or by Articles 21 to 79 of the Local Civil Code applicable in the Departments of Bas-Rhin, Haut-Rhin and Moselle have effectively been engaged, exclusively or otherwise, in an economic activity for at least two years, they may issue bonds as envisaged in the present subsection.

Article L213-9
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The bonds referred to in Article L. 213-8 may be redeemable at the discretion of the issuer only. In which case, they constitute lowest-ranking debts, are issued in registered form and are referred to as association instruments.

Article L213-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Prior to the issue of bonds, the association must:

1. Be registered with the Trade and Companies Register under terms and conditions determined by decree;

2. Stipulate in its articles of association the manner in which the persons responsible for managing, representing and committing it vis-à-vis third parties shall be appointed, and the establishment of a collegiate organ responsible for overseeing the actions of those persons.

If the articles of association stipulate the appointment of a Board of Directors, the association is not required to establish the collegiate organ referred to above.

The collegiate organ or the Board of Directors is composed of at least three persons elected from among its members.

Article L213-11
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Whenever a bond issue takes place, the association must make the details of the conditions of issue available to the subscribers, as well as an information document. The latter shall provide information on the organisation, the amount of the equity capital at the close of the previous accounting period, the financial situation and the trend of the association's business.

The elements which must appear in these documents are determined by decree; the figures provided therein are visaed by an auditor chosen from the list referred to in I of Article L. 225-219 of the Commercial Code.

Article L213-12
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Amending Finance Act No. 2001-1276 of 28 December 2001 Article 51 III, Official Journal of 29 December 2001 effective 1 January 2002)

The issue of bonds by the associations referred to in Article L. 213-8 may take place by way of a public offering. In which case, it is submitted to the Stock Exchange Commission's clearance procedure as stipulated in the present Code. If the amount exceeds 38,000 euros, it is moreover subject to the prior authorisation of the Minister for the Economy.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L213-13
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

If no public offering is made, the interest rate stipulated in the issuing contract cannot be above the average rate for the bond market during the quarter preceding the issue.

Article L213-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The bond issuing contracts entered into by associations as envisaged in the present subsection cannot under any circumstances be used by the issuing association to distribute profits to its members, to persons who are bound to it by a contract of employment, to its de facto and de jure executives or to any other person.

Contracts entered into in breach of the provisions of the previous paragraph are sanctioned by absolute nullity.

Article L213-15

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The issue of bonds by an association entails the application of Articles L. 612-1 and L. 612-3 of the Commercial Code to that association, regardless of the number of employees, the amount of its turnover or of its resources or its balance-sheet total.

When an association makes a public offering, the provisions of Article L. 612-2 of the Commercial Code are applicable to it.

The issue also creates an obligation for the association to convene a general meeting of its members at least once each year within six months of the close of the previous accounting period in order to approve the annual accounts which are published as determined by decree.

If, on account of cumulative losses shown in the accounting records, the equity capital has been reduced by more than one half relative to the amount thereof at the end of the accounting period preceding that of the issue, a general meeting must also be convened within four months of approval of the accounts which recorded those losses for the purpose of deciding whether the association's business should continue or whether it should be dissolved.

If the association is not dissolved, it is required to rebuild its equity capital by the close of the second accounting period following that in which the cumulative losses appeared in the accounts, at the latest.

In either case, the resolution adopted by the general meeting is published in the Trade and Companies Register.

Should a general meeting not take place, as in the case of it being unable to validly deliberate, the association shall lose the right to issue new instruments, and any holder of instruments already issued may apply to the court for immediate redemption of the entire issue. These provisions likewise apply in the event of an association which has decided not to dissolve itself failing to comply with the obligation to rebuild its equity capital within the time limit stipulated in the fifth paragraph of the present article.

The court may allow the association a period of six months in which to regularise its situation; it cannot order immediate redemption if that regularisation has taken place by the day on which it rules on the merits.

Article L213-16

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The decision to issue bonds is taken by the general meeting of the association's members on a detailed proposal from the management. The meeting also determines the amount of the issue, its placement range, the instruments' subscription price and interest or the procedures for determining those elements. It may delegate to the management, for a period not exceeding five years, the power to decide the other particulars of the issue, which, unless otherwise decided, may be executed as one process or in several tranches.

The meeting deliberates on all matters relating to the issue on the basis required for an amendment to the articles of association.

Article L213-17

(Order No. 2004-604 of 24 June 2004 Art. 52 IX Official Journal of 26 June 2004)

The provisions of Articles L. 213-5 and L. 213-6 of the present code, and Articles L. 228-1, L. 228-5, L. 228-43 to L. 228-89, L. 242-10, L. 245-9 to L. 245-12 (1), and L. 245-13 to L. 245-17 of the Commercial Code apply to bonds issued by associations.

The provisions referred to in the previous paragraph relating to a company's Board of Directors, Executive Board or managers are applicable to associations which issue bonds and govern the persons or structures which are responsible for administration pursuant to the articles of association.

Those which relate to a company's Supervisory Board or to its members apply, if there is one, to the supervisory collegiate organ and its members.

Article L213-18

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Articles L. 237-1 to L. 237-31 of the Commercial Code are applicable in the event of the dissolution of the issuing association, without prejudice to the provisions of the Act of 1 July 1901 relating to association agreements and of articles 21 to 79 of the Local Civil Code applicable in the Departments of Bas-Rhin, Haut-Rhin and Moselle.

Article L213-19

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000 JORF amendment 17 March 2001)

The responsibility of the members of the management, administrative or supervisory structures of associations is as described in Article L. 225-251, the second paragraph of Article L. 225-253, and Articles L. 225-254 and L. 225-257 of the Commercial Code, as applicable.

The provisions of Article L. 642-3 of the present Code are applicable to the executives of associations which make

public offerings.

Article L213-20
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Associations registered with the Trade and Companies Register as stipulated in the present subsection may form groups to issue bonds.

This entails the creation of an economic interest group as stipulated in the second paragraph of Article L. 251-7 of the Commercial Code.

Economic interest groups created by associations in order to issue bonds are obligated in regard to the redemption and yield of those bonds. Such economic interest groups have, vis-à-vis the associations from which they are constituted and which benefited from a fraction of the proceeds of the issue, rights identical to those conferred on the holders of bonds issued by associations by Articles L. 213-15, L. 213-17 and L. 213-19.

The provisions of Articles L. 213-19 and L. 231-2 are applicable to the executives of economic interest groups created by associations in order to issue bonds.

The provisions of the first paragraph of Article L. 213-15 and of Article L. 213-17 are applicable to such groups.

Article L213-21
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree determines the present subsection's implementing legislation, as necessary.

Article L213-18-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 4 Official Journal of 7 May 2005)

The managers of associations which issue bonds are subject to the incapacities referred to in Article L. 500-1.

SECTION III
Instruments Issued by the Government — Articles L213-22 to L213-31

Subsection 1
Government Loans — Article L213-22

Article L213-22
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The face amount of matured coupons detached prior to presentation for redemption cannot be claimed from the holders of debt securities redeemed, issued or managed by the Government.

Only the interest corresponding to any missing coupons maturing after the date of presentation are deducted from the capital repaid.

Subsection 2
Treasury Bills — Articles L213-23 to L213-31

Article L213-23
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Amending Finance Act No. 2001-1276 of 28 December 2001 Article 51 III, Official Journal of 29 December 2001 effective 1 January 2002)

Credit institutions and investment firms must deposit the Treasury Bills which belong to them with the Bank of France if the total par value of those bonds exceeds 750 euros.

Article L213-24
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France opens a current account for bills in its books in the name of each depositing institution or person, arranged by order of maturity.

Article L213-25
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The subscriptions made by the current-account holders give rise to a credit entry in their account equal to the face amount of the bonds subscribed, without physical delivery of a certificate.

Article L213-26
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Trésor public opens a current account for bills in its books in the name of the Bank of France in which all deposits and withdrawals are entered along with the bill subscription and redemption transactions processed through the current accounts maintained by the Bank of France.

Article L213-27
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The current-account entries for bills may be the subject of transactions in the same way as bonds.

The said entries are freely transferable.

Article L213-28

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Transfer instructions are exempt from stamp duty.

Article L213-29

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

No stop can be placed on a current account for bills.

Article L213-30

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The list of institutions or persons referred to in Article L. 213-23 may be extended by decree on the basis of a report from the Minister for the Economy.

The Bank of France may allow institutions or persons not referred to in Article L. 213-23 to open a current account for bills in its books. Such accounts are automatically subject to the provisions of Articles L. 213-23 to L. 213-31.

Article L213-31

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Without prejudice to the penalties which may be applied by the Banking Commission for offences against the banking regulations, any breach of the obligations deriving from Article L. 213-23 shall result in the loss of the interest accrued on the value of the bills that were not deposited during the period in which they were illegally held.

SECTION IV

Participating Securities — Articles L213-32 to L213-35

Article L213-32

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Public-sector joint-stock companies, limited liability cooperative societies, mutual or cooperative banks and State-owned public institutions of an industrial and commercial nature may issue participating securities as provided for in Articles L. 228-36 and L. 228-37 of the Commercial Code.

Article L213-33

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules relating to the issue of participating securities by insurance companies are laid down in Article L. 322-2-1 of the Insurance Code.

Article L213-34

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules relating to the issue of participating securities by agricultural cooperative societies and their unions are laid down in Article L. 523-8 of the Rural Code.

Article L213-35

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A decree determines the provisions relating to the issue of, and the return on, the securities issued by the mutual or cooperative banks and public institutions of an industrial and commercial nature, as necessary.

CHAPTER IV

Collective Investment — Articles L214-2 to L214-1

Article L214-1

(Act No. 2003-706 of 1 August 2003 Art. 46 III 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 73 II Official Journal of 7 May 2005)
(Order No. 2005-1278 of 13 October 2005 Art. 1 Official Journal of 14 October 2005)

I. - The undertakings for collective investment are:

1. Undertakings for collective investment in transferable securities;
2. Securitisation funds;
3. Real-property investment partnerships;
4. Forestry-linked savings companies;
5. Real-property collective investment undertakings.

II. - Paragraph transferred to Article L543-1.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

SECTION I

Undertakings for Collective Investment in Transferable Securities — Articles L214-2 to L214-42

Subsection 1

Provisions applicable to All Undertakings for Collective Investment in Transferable Securities — Articles L214-2 to L214-4

Article L214-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 62, Official Journal of 2 August 2003)

Undertakings for collective investment in transferable securities take the form of either open-end investment companies (SICAVs) or unit trusts.

Undertakings for collective investment in transferable securities may deal with various categories of units or shares in conditions determined respectively by the fund's regulations or by the SICAV's articles of association, in keeping with the dictates of the General Regulations of the Financial Markets Authority.

Article L214-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The formation, conversion, merger, demerger or liquidation of an undertaking for collective investment in transferable securities is subject to authorisation from the Stock Exchange Commission.

Undertakings for collective investment in transferable securities, custodians and management companies must act for the exclusive benefit of the subscribers. They must provide adequate guarantees in respect of their organisation, their technical and financial resources, and the respectability and experience of their managers. They must take the necessary steps to ensure the security of the transactions. The entities referred to in Articles L. 214-15, L. 214-16 and L. 214-24 must act independently.

The Stock Exchange Commission may withdraw its authorisation from any undertaking for collective investment in transferable securities.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L214-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-152 of 19 February 2001 Article 19 IV, Official Journal of 20 February 2001)
(Order No. 2000-916 of 19 September 2000 Article 1 I, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 58 1, Official Journal of 2 August 2003)

Under conditions and within limits determined in a Conseil d'Etat decree, the assets of an undertaking for collective investment in transferable securities consist of:

a) Financial instruments within the meaning of Article L. 211-1;

b) Deposits placed with French or foreign credit institutions;

c) Subsidiarily, liquid assets.

Open-end investment companies may own the real property which is necessary for their business.

An undertaking for collective investment in transferable securities cannot invest more than 5% of its assets in the securities of a single issuer. A Conseil d'Etat decree determines the circumstances and the categories of securities in respect of which this limit may be exceeded.

An undertaking for collective investment in transferable securities may lend and borrow securities and borrow cash within the limit of a fraction of its assets. In the case of cash borrowing, this limit cannot exceed 10% of the assets.

An undertaking for collective investment in transferable securities cannot hold more than 10% of a single category of transferable securities of a single issuer. A Conseil d'Etat decree determines the categories of transferable securities and the circumstances in respect of which this limit may be exceeded. This threshold is increased to 25% when the issuer is a joint undertaking within the meaning of Article L. 443-3-1 of the Labour Code having equity capital below 152,449.02 euros.

Subsection 2

Specific Rules applicable to Open-End Investment Companies — Articles L214-5 to L214-19

Article L214-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The units of securitisation funds may not be held above a percentage determined by decree:

1. By a unit trust whose management company is placed under the control, within the meaning of Article L. 233-3 of the Commercial Code, of a credit institution which has assigned its debts to the fund;

2. By a SICAV whose executives and employed managers are answerable to a credit institution which has assigned it debts to the fund.

Article L214-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Creditors whose claim arises from the custody or management of the assets of a SICAV or a unit trust may claim

against those assets only.

A custodian firm's creditors cannot sue for payment of their debts against the assets of a SICAV or a unit trust for which it provided custody.

Article L214-7

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 58 2, Official Journal of 2 August 2003)
(Act No. 2003-706 of 1 August 2003 Article 59 7, Official Journal of 2 August 2003)

An undertaking for collective investment in transferable securities may enter into contracts to create financial futures within limits and under conditions determined in a Conseil d'Etat decree.

Article L214-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules of a unit trust and the articles of association of a SICAV determine their accounting periods, which shall not exceed twelve months. The first accounting period may nevertheless be of a different duration, but shall not exceed eighteen months.

Within six weeks of the end of each half-year of the accounting period, the SICAV or the management company shall draw up an inventory of the assets that it manages, under the custodian's supervision.

Such entities are required to publish details of their asset structure within eight weeks of the close of each half-year of the accounting period. The auditor certifies the accuracy thereof before publication. Upon expiry of that period, any shareholder or unitholder who so requests is entitled to see the document.

Thirty days at least before the general meeting called to approve them, the SICAV is also required to publish its profit and loss account and its balance sheet. It is exempted from publishing them again after the general meeting, unless that meeting has amended them.

Article L214-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The net profit or loss of an undertaking for collective investment in transferable securities is equal to the amount of the interest, arrears, premiums and batches, dividends, attendance fees and all other income relating to the securities that make up the portfolio, plus the income from the sums then currently available and less the amount of the management fees and the charges on borrowings.

Article L214-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The sums that are distributable by an undertaking for collective investment in transferable securities are equal to the net profit or loss plus the retained earnings and plus or minus the balance shown in the asset-liability adjustment account for the income relating to the previous accounting period.

The distributable sums are paid within five months of the close of the accounting period.

Article L214-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Notwithstanding the provisions of the first paragraph of Article L. 123-22 of the Commercial Code, the accounts of an undertaking for collective investment in transferable securities may be maintained in any currency unit, as determined by decree.

Article L214-12

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 51, Official Journal of 2 August 2003)

The Financial Markets Authority stipulates how and when undertakings for collective investment in transferable securities must provide information to their subscribers, and likewise the position in relation to advertising, and audiovisual advertising in particular, and canvassing.

Article L214-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Undertakings for collective investment in transferable securities must provide the Bank of France with the information it needs to compile the monetary statistics.

Article L214-14

(Act No. 2003-706 of 1 August 2003 Art. 46 V Official Journal of 2 August 2005)
(Order No. 2005-1126 of 8 September 2005 Art. 22 Official Journal of 9 September 2005)

When it has knowledge of a breach of the provisions of the present code committed by an auditor of a portfolio management company or of an undertaking for collective investment in transferable securities, or when it considers that the conditions of independence necessary for the proper execution of that auditor's mission are no longer met, the Financial Markets Authority may ask the competent court to relieve him of his duties as envisaged in Article L. 823-7 of the Commercial Code.

The Financial Markets Authority may also report the breach to the relevant disciplinary authority. To which end, the Financial Markets Authority may provide any information which that authority might require.

Article L214-15

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 59 1, 5, Official Journal of 2 August 2003)

An open-end investment company, known as a "SICAV", is a public limited company whose purpose is the management of a portfolio of financial instruments and deposits.

Without prejudice to the provisions of Article L. 214-19, SICAV shares may be issued and redeemed by the company at any time at the request of the shareholders at their net asset value plus or minus the fees and commissions, as applicable.

The Financial Markets Council may allow these shares to be admitted to trading on a regulated market as determined by decree.

The amount of the capital is equal at any time to the value of the company's net assets after deduction of the distributable sums indicated in Article L. 214-10.

The initial capital of a SICAV cannot be below an amount determined by decree.

Article L214-16

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A SICAV's assets are held by a single custodian separate from the company and chosen from a list of legal entities drawn up by the Minister for the Economy. The said custodian is appointed by the SICAV's articles of association. Its registered office must be in France. It ensures the legitimacy of the SICAV's decisions.

Its responsibility is not affected by the fact of it entrusting some or all of the assets in its custody to a third party.

Article L214-17

(Act No. 2002-1303 of 29 October 2002 Art. 3 I, II Official Journal of 30 October 2002)
(Act No. 2003-706 of 1 August 2003 Art. 46 V Official Journal of 2 August 2003)
(Order No. 2005-1126 of 8 September 2005 Art. 21 Official Journal of 9 September 2005)

Notwithstanding the provisions of Parts II and III of Book II of the Commercial Code:

1. The shares are fully paid-up upon issue;

2. Any contribution in kind is valued by the auditor under his own responsibility;

3. An ordinary General Meeting may be held without a quorum being required; the same applies to a reconvened extraordinary General Meeting;

4. A natural person may simultaneously hold five appointments as general manager, Executive Board member or sole general manager of SICAVs having their registered office in France. Remits as general manager, Executive Board member or sole general manager of a SICAV are not taken into account for the calculation of plurality of offices referred to in Book II of the Commercial Code;

4 bis. Appointments as a legal entity's permanent representative on a SICAV's Board of Directors or Supervisory Board are not taken into account for application of Articles L. 225-21, L. 225-77 and L. 225-94-1 of the Commercial Code;

5. The auditor is appointed for six accounting periods by the Board of Directors or the Executive Board with the Financial Markets Authority's consent.

The auditor is released from professional secrecy in relation to the Financial Markets Authority.

The auditor is required to report to the Financial Markets Authority, as soon as possible, any fact or decision concerning an open-end investment company which he has become aware of in the performance of his duties and which might:

a) Constitute a breach of the laws or regulations applicable to that company and be likely to have significant effects on its financial situation, profits or assets;

b) Jeopardise its continued exploitation;

c) Give rise to the issuing of reservations or a refusal to certify the accounts.

The auditor shall not incur liability through having provided information or disclosed facts pursuant to the obligations imposed by the present article.

The Financial Markets Authority may also send the auditors of open-end investment companies information they require in order to perform their duties. The information thus provided is covered by the rules of professional secrecy.

6. Payment of the distributable profits must take place within one month of the General Meeting which approved the accounts for the period;

7. An extraordinary General Meeting which decides on a conversion, merger or demerger empowers the Board of Directors or the Executive Board to value the assets and determine the share-for-share exchange parity on a date which it sets; this procedure takes place under the supervision of the auditor without there being any requirement to appoint an auditor for the merger; the General Meeting is exempted from approving the accounts if they are certified by the auditor;

8. In the event of a capital increase, the shareholders do not have any preferential subscription right in respect of the new shares;

9. The valuation of contributions in kind is recorded in the articles of association on the basis of a report appended thereto which the auditor draws up under his own responsibility.

The articles of association cannot provide for specific advantages;

10. The annual General Meeting is held within four months of the close of the accounting period;

11. The open-end investment company's registered office and principal administrative establishment are located in France.

Article L214-18

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Order No. 45-2710 of 2 November 1945 relating to investment companies, and Articles L. 224-1, L. 224-2, L. 225-3 to L. 225-16, L. 225-25, L. 225-26, L. 225-258 to L. 225-270, L. 231-1 to L. 231-8, L. 242-31 and L. 247-10 of the Commercial Code, are not applicable to SICAVs.

Article L214-19

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 59 2, Official Journal of 2 August 2003)

Redemption by the company of its shares, and also the issue of new shares, may be provisionally suspended by the Board of Directors or the Executive Board, pursuant to the company's articles of association, in exceptional circumstances and if the shareholders' interests demand it.

The General Regulations of the Financial Markets Authority determine the other cases in which a SICAV's articles of association may provide, when necessary, for the issue of shares to cease, provisionally or permanently, and the conditions applicable thereto.

Subsection 3
Specific Rules applicable to Unit Trusts — Articles L214-20 to L214-32

Article L214-20

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 59 3, 6, Official Journal of 2 August 2003)

Without prejudice to the provisions of the second paragraph of Article L. 214-30, a unit trust, which does not have legal personality, is a co-ownership of financial instruments and deposits whose units are issued and redeemed at the request of the holders at their net asset value plus or minus the fees and commissions, as applicable. The provisions of the Civil Code that relate to joint ownership do not apply to unit trusts, and nor do those of Articles 1871 to 1873 of that same code that relate to holding companies.

The Financial Markets Council may allow the units to be admitted to trading on a regulated market as determined by decree.

Article L214-21

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In all cases in which provisions relating to companies and transferable securities require that the surname, forenames and address of the holder of the security be indicated, and also in the case of all transactions carried out on behalf of the co-owners, the name of the unit trust may be validly substituted for those of all the co-owners.

Article L214-22

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The unitholders or their assigns cannot initiate the division of the fund.

Article L214-23

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The unitholders are liable for the co-ownership's debts only within the limits of the fund's assets and in proportion to their own share.

Article L214-24

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 68 I a, Official Journal of 2 August 2003)

A unit trust is created at the joint initiative of a management company within the meaning of Article L. 214-25, responsible for its management, and of a legal entity acting as custodian of the fund's assets.

That company and that legal entity establish the fund's regulations.

The subscription or purchase of a unit trust's units entails acceptance of the rules.

Article L214-25

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 68 I b, Official Journal of 2 August 2003)

The unit trust is represented in regard to third parties by the company responsible for its management. That company may bring legal proceedings to defend or assert the unitholders' rights or interests.

The management company's registered office and principal administrative establishment are located in France.

Article L214-26

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The fund's regulations must provide for its assets to be held by a single custodian separate from the fund's management company which ensures the legitimacy of the company's decisions.

That custodian is chosen by the management company from a list drawn up by the Minister for the Economy.

Its responsibility is not affected by the fact of it entrusting some or all of the assets in its custody to a third party.

Its registered office must be in France.

Article L214-27

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The minimum asset value that the fund must have upon its formation is determined by decree.

The assets are valued on the basis of a report drawn up by the auditor, as determined by decree. The value of the contributions in kind is verified by the auditor, who draws up a report thereon under his own responsibility.

Article L214-28

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The management company or the custodian are individually or jointly liable, as applicable, towards third parties or unitholders, for any violation of the laws or regulations applicable to unit trusts, for any breach of the fund's regulations, and for any wrongful act.

Article L214-29

(Act No. 2003-706 of 1 August 2003 Art. 46 V 1 Official Journal of 2 August 2003)
(Order No. 2005-1126 of 8 September 2005 Art. 21, Art. 22 Official Journal of 9 September 2005)

I. - The fund's auditor is appointed by the management company's manager, Board of Directors or Executive Board with the Financial Markets Authority's consent.

The fund's unitholders exercise the rights vested in shareholders by Articles L. 823-6 et L. 823-7 of the Commercial Code.

The auditor informs the management company's General Meeting of any irregularities or inaccuracies he uncovered in the performance of his duties.

II. - The auditor is released from professional secrecy in relation to the Financial Markets Authority.

The auditor is required to report to the Financial Markets Authority, as soon as possible, any fact or decision concerning the fund which he has become aware of in the performance of his duties and which might:

1. Constitute a violation of the fund likely to have significant effects on its financial situation, profits or assets;
2. Jeopardise its continued exploitation or the conditions thereof;
3. Give rise to the issuing of reservations or a refusal to certify the accounts.

The auditor shall not incur liability through having provided information or disclosed facts pursuant to the obligations imposed by the present article.

The Financial Markets Authority may also send the fund's auditors information they require in order to perform their duties. The information thus provided is covered by the rules of professional secrecy.

Article L214-30

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 59 4, Official Journal of 2 August 2003)

Redemption by the fund of its units, and the issue of new units, may be provisionally suspended by the management company, pursuant to the fund's regulations, in exceptional circumstances and if the unitholders' interests demand it.

The General Regulations of the Financial Markets Authority determine the other cases in which a fund's regulations may provide, where necessary, for the issue of shares to cease, provisionally or permanently, and the conditions applicable thereto.

Article L214-31

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The conditions of liquidation and the arrangements for dividing up the assets are determined by the rules. The custodian, or, if appropriate, the management company, assumes the liquidator's functions; failing which, a liquidator is appointed by the court at the request of any unitholder.

Article L214-32

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - The management company is required to make the declarations stipulated in Article L. 233-7 of the Commercial Code in respect of all the shares held by the unit trusts it manages.

II. - The provisions of Articles L. 233-14 and L. 247-2 of the Commercial Code are applicable.

Subsection 4

Undertakings for Segmented Collective Investment in Transferable Securities — Article L214-33

Article L214-33

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 V 1, Article 60 1, Official Journal of 2 August 2003)

I. - An undertaking for collective investment in transferable securities may have two or more compartments if its articles of association or its rules so provide. Each compartment gives rise to the issue of a category of shares or units which represent the assets of the undertaking for collective investment in transferable securities which are allocated to it. Notwithstanding Article 2093 of the Civil Code and unless otherwise stipulated in the undertaking for collective investment in transferable securities' articles of association, the assets of a given compartment may only be used to meet that compartment's debts, commitments and obligations and only benefit from that compartment's receivables.

When compartments are created in a venture-capital unit trust, a high-tech unit trust, a managed futures fund or a simplified collective investment undertaking, they are all individually subject to the provisions of the present Code which

govern that fund or that entity.

The Financial Markets Authority lays down the conditions each compartment formed must meet in order to receive its authorisation, as well as the conditions for determining the cash-in value of each category of shares or units on the basis of the net asset value allocated to the corresponding compartment.

II. - Separate accounts are maintained in the undertaking for collective investment in transferable securities' books for each compartment and may be recorded in any currency unit, as provided for in the decree referred to in Article L. 214-11.

III. - Notwithstanding the provisions of Article L. 214-4 a compartment may be governed by the provisions relating to feeder funds stipulated in Article L. 214-34.

IV. - The Financial Markets Authority approves any conversion, merger, demerger or liquidation of a compartment, under conditions which it determines.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Subsection 5
Master-Feeder Undertakings for Collective Investment in Transferable Securities — Article L214-34

Article L214-34

(Act No. 2003-706 of 1 August 2003 Art. 46 V 1, 2, Art. 63 VI Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

I. - The articles of association or rules of a feeder fund may provide, under conditions laid down in the General Regulations of the Financial Markets Authority, for the entirety of its assets to be invested in the shares or units of a single undertaking for collective investment in transferable securities, known as a master fund, and, subsidiarily, in liquid assets.

II. - A master fund is:

1. A common-law undertaking for collective investment governed by subsections 1, 2, 3 and 4 of Section 1 of the present Chapter; or

2. A venture-capital unit trust, a high-tech unit trust or a managed futures fund; feeder funds are therefore subject to the rules relating to holdings, marketing, advertising and canvassing that apply to the master fund; or

3. An undertaking for collective investment in transferable securities reserved for certain investors governed by Subsection 9 of the present section. In this case, the rules applicable to the feeder fund's investment holdings, canvassing and marketing are those that apply to the master fund; or

4. An undertaking for collective investment subject to the laws of a State which benefits from the mutual recognition of approvals procedure specified by Council Directive 85/611 of 20 December 1985, provided that those laws allow:

a) The creation and marketing of feeder funds whose assets consist of the units or shares of an undertaking for collective investment in transferable securities established in France;

b) Information exchanges as indicated in III of the present article;

c) An agreement covering exchanges of information and assistance to be entered into with the authority responsible for supervising undertakings for collective investment in transferable securities.

The General Regulations of the Financial Markets Authority set out the implementing legislation for the present point II.

III. - The custodians and auditors of the feeder funds and the master fund exchange the information that is necessary for accomplishment of their respective duties.

Subsection 9
Undertakings for Collective Investment in Transferable Securities Reserved for Certain Investors — Articles L214-35 to L214-35-6

Paragraph 1
: Real-Property Collective Investment Undertakings with Simplified Operating Rules — Articles L214-35 to L214-35-1

Article L214-35

(Act No. 2003-706 of 1 August 2003 Art. 63 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

An undertaking for collective investment in transferable securities with simplified investment rules may depart from Article L. 214-4 under conditions and within limits determined in a Conseil d'Etat decree.

The General Regulations of the Financial Markets Authority determine the terms of subscription, transfer and redemption for the units or shares issued by such undertakings.

Article L214-35-1

(Act No. 2003-706 of 1 August 2003 Art. 63 I Official Journal of 2 August 2003)

(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)
(Act No. 2005-842 of 26 July 2005 Art. 25 III Official Journal of 27 July 2005)

Units or shares of an undertaking for collective investment in transferable securities with simplified investment rules may be subscribed and bought only by qualified investors within the meaning of the penultimate paragraph of Article L. 411-2 and by foreign investors belonging to an equivalent category under the law of the country in which its registered office is located.

The General Regulations of the Financial Markets Authority determine the conditions under which the units or shares of such undertakings may be made available to other investors in keeping, inter alia, with the nature thereof and the level of risk that the undertaking presents.

The custodian or the person designated to perform the custodial function in the undertaking's rules or articles of association shall ensure that the subscriber or buyer is an investor as described in the previous paragraph. It shall also ensure that the subscriber or buyer has effectively declared that he was informed that the said undertaking was governed by the provisions of the present subsection.

Paragraph 2

Organismes collectif en valeurs mobilières contratcuels — Articles L214-35-2 to L214-35-6

Article L214-35-2

(Act No. 2003-706 of 1 August 2003 Art. 63 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The object of a contractual undertaking for collective investment in transferable securities is to invest in all financial instruments referred to in Article L. 211-1 and in bank deposits. It takes the form of a SICAV or a unit trust.

Depending on the form taken, its designation is "contractual investment company" or "contractual investment fund" respectively.

Notwithstanding the provisions of Article L. 214-4, the rules or articles of association of the contractual undertaking for collective investment determines the rules of investment and commitment.

Article L214-35-3

(Act No. 2003-706 of 1 August 2003 Art. 63 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The first and third paragraphs of Article L. 214-35-1 apply to contractual undertakings for collective investment. The General Regulations of the Financial Markets Authority determine the conditions under which the units or shares of such undertakings may be made available to other investors in keeping, inter alia, with the nature thereof and the level of risk that the undertaking presents.

Article L214-35-4

(Act No. 2003-706 of 1 August 2003 Art. 63 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The formation, conversion, merger, demerger or liquidation of a contractual undertaking for collective investment in transferable securities does not require approval from the Financial Markets Authority but must be declared to it as indicated in its General Regulations within one month of completion.

The General Regulations also determine how subscribers are informed of the investment rules specific to that undertaking, including the ways in which it may depart from Article L. 214-4, as well as the periodicity and modus operandi of the net asset value calculation.

Article L214-35-5

(Act No. 2003-706 of 1 August 2003 Art. 63 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

Notwithstanding the second paragraph of Article L. 214-15 and the first paragraph of Article L. 214-20, the rules or articles of association of the contractual undertaking for collective investment in transferable securities set out the terms and conditions of subscription, purchase and redemption of units and shares; when those rules or articles of association allow redemption only after a certain period has elapsed, however, the said period is limited to two years with effect from the undertaking's date of formation; any period imposed for execution of redemptions by the undertaking's rules or articles of association shall not exceed three months.

The rules or articles of association of a contractual undertaking for collective investment in transferable securities stipulate the net asset value below which it must be dissolved.

The undertaking's rules or articles of association also stipulate the terms and conditions applicable to any amendment thereof. Failing this, any amendment shall require a unanimous vote of the shareholders or unitholders.

Article L214-35-6

(Act No. 2003-706 of 1 August 2003 Art. 63 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

Considering, inter alia, the manner in which such undertakings are managed, a contractual undertaking for collective investment in transferable securities may only be managed by a management company specially approved for that purpose as provided for in the General Regulations of the Financial Markets Authority.

Subsection 10

Article L214-36

(Finance Act No. 2001-1275 of 28 December 2001 Art. 78 I a, b for 2002 Official Journal of 29 December 2001)
(Finance Act No. 2004-1484 of 30 December 2004 Art. 38 I a) for 2005 Official Journal of 31 December 2004)
(Order No. 2005-429 of 6 May 2005 Art. 24, Art. 25 Official Journal of 7 May 2005)
(Amending Finance Act No. 2005-1720 of 30 December 2005 Art. 32 I for 2005 Official Journal of 31 December 2005 effective 2 January 2006)

1. At least 50% of the assets of a venture-capital unit trust must consist of participating securities or securities which give direct or indirect access to the capital of companies which are not admitted to trading on a French or foreign regulated market and whose operations are managed by a market undertaking, an investment service provider or any similar foreign entity, or, contrary to Article L. 214-20, shares in limited liability companies or companies having an equivalent status in their State of residence.

2. The assets may also include:

a) Subject to a limit of 15%, current account advances granted to companies in which the fund holds at least 5% of the capital for the term of the investment made. Such advances are taken into account for calculation of the quota referred to in 1 when they are granted to companies that meet the conditions for inclusion in that quota;

b) Rights that represent a financial investment in an entity created in a Member State of the Organization for Economic Cooperation and Development with the principal objective of investing in companies whose capital securities are not admitted to trading on a market indicated in 1. Such rights are included in the fund's investment quota of 50% only up to the percentage of the direct investment of the assets of the entity concerned in companies eligible for that same quota.

3. Capital shares, or shares giving access to the capital, which are admitted to trading on a market indicated in 1 of a Member State of the European Economic Area and are issued by companies whose market capitalisation is below 150 million euros, are also eligible for the investment referred to in 1, subject to a limit of 20% of the fund's assets. The market capitalisation is evaluated on the basis of the average of the opening prices of the sixty trading days preceding the investment date. A Conseil d'Etat decree determines how the said evaluation shall be applied in the event, inter alia, of an initial listing or a company restructuring operation.

4. When the securities of a company held by a venture-capital unit trust are admitted to trading on a French or foreign financial instruments market whose operations are managed by a market undertaking, an investment service provider or any similar foreign entity, they continue to be included in the investment quota of 50% for a period of five years with effect from their admission. The five-year period does not apply, however, if the securities of the company admitted to trading meet the conditions of 3 on the date of such admission and if the fund still complies with the limit of 20% referred to therein when the said securities are taken into account.

5. The investment quota of 50% must be met, at the very latest, by the time the year-end inventory takes place for the accounting period following the accounting period in which the venture-capital unit trust was created, and must be maintained until the close of the fund's fifth accounting period.

6. A Conseil d'Etat decree determines the implementing regulations for the quota referred to in 5 in the event of the fund making further calls for capital or seeking further subscriptions. It also determines the valuation rules for the quota and the specific rules relating to the terms of acquisition and assignment and the limits for the holding of assets.

7. The unitholders cannot request redemption until a set period not exceeding ten years has expired. When the said period has elapsed, the unitholders may demand the fund's liquidation if their requests for redemption are not met within one year.

8. The units may give rise to different rights on the net assets or the income from the fund under conditions determined by the fund's regulations.

9. The rules of a venture-capital unit trust may provide for one or more fixed-term subscription periods. The management company may distribute a fraction of the assets only when the last subscription period has expired and only as determined by decree.

10. The units of a venture-capital unit trust may be assigned as soon as they are subscribed. If the units are not fully paid up, the subscriber and the successive assignees are jointly and severally liable for the amount which is not paid up. If the unitholder should fail to pay the sums remaining due in respect of the units held at the times specified by the management company, the latter shall send him a formal demand. If the said demand is ineffective one month after its delivery, the management company may assign those units without any authorisation from the court. However, a subscriber or assignee who has assigned his units ceases to be liable for making the payments not yet called by the management company when two years have elapsed since the book transfer of the assigned units was effected.

11. The fund's rules may provide for the management company to receive a portion of the assets as determined in a Conseil d'Etat decree upon liquidation of the fund.

Article L214-37

(Act No. 2003-706 of 1 August 2003 Art. 46 V 1, Art. 63 II Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The units of simplified-procedure venture capital funds may be subscribed for and bought only by the investors referred to in Article L. 214-35-1 and by managers, employees or other natural persons, acting on behalf of the management company, and by the management company itself. The creation, conversion, merger, demerger or

liquidation of the fund is not subject to approval from the Financial Markets Authority, but it must be declared to it as indicated in the Commission's regulations, within one month of its completion.

The custodian or the person designated to perform the custodial function in the fund's rules shall ensure that the subscriber or buyer is an investor as indicated above. It shall also ensure that the subscriber or buyer has effectively declared that he was informed that the fund was governed by the provisions of the present subsection.

A Conseil d'Etat decree determines specific rules relating to the conditions and limits applicable to such funds' asset holdings.

Article L214-38

(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

Venture capital funds which existed on 30 June 1999 and are not advertised or canvassed for follow the rules applicable to simplified-procedure venture capital funds, with the exception of the rules relating to investor status and those applicable to conversions, mergers, demergers and liquidations, unless each of the fund's unitholders expressly agrees to place such events under the scheme for simplified-procedure venture-capital unit trusts.

Subsection 11
In-House Unit Trusts

Articles L214-39 to L214-40-1

Article L214-39

(Act No. 2001-152 of 19 February 2001 Art. 19 II, Art. 21, Art. 23 i 2 Official Journal of 20 February 2001)
(Act No. 2003-775 of 21 August 2003 Art. 109 IV Official Journal of 22 August 2003)
(Finance Act No. 2003-1311 of 30 December 2003 Art. 82 IV for 2003 Official Journal of 31 December 2003)
(Act No. 2003-706 of 1 August 2003 Art. 40 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The rules of funds created to manage sums invested pursuant to Article L. 225-187 of the Commercial Code and Part IV of Book IV of the Labour Code relating to profit-sharing and employees' holdings provide for the creation of a Supervisory Board and specify the cases in which the management company must seek guidance from that board.

The Supervisory Board is composed of employees representing the unitholders, who are themselves unitholders, and representatives of the company, occupying half of the seats at most, or, if the fund holds securities bought with sums taken from the dividend reserves or paid into company savings schemes established in several companies, representatives of those companies.

The rules stipulate the procedure for appointing the unitholders' representatives, either by election, or by a choice made by the works councils concerned or by the representative trade unions within the meaning of Article L. 132-2 of the Labour Code.

The chairman of the Supervisory Board is chosen from among the unitholders' representatives.

When the last paragraph of Article L. 443-3 of that same code is applied, the rules refer to the provisions set forth in the savings scheme's rules.

The Supervisory Board exercises the voting rights attached to the fund's underlying assets and decides contributions of the securities. The rules may nevertheless stipulate that the management company shall exercise the voting rights attached to those securities and decide contributions thereof, save for the company's own securities or those of any company affiliated to it within the meaning of Article L. 444-3 of the Labour Code. The Supervisory Board is required to examine the financial, administrative and accounting management and may consult the management company, the custodian and the fund's auditor, who are required to cooperate with it. It decides mergers, demergers and liquidations. The fund's rules specify all changes to the rules themselves which cannot be decided without the Supervisory Board's consent. Without prejudice to the management company's remit as described in Article L. 214-25, or that of the liquidator as described in Article L. 214-31, the Supervisory Board may initiate legal proceedings to defend or assert the unitholders' rights or interests.

The Supervisory Board approves an annual report which is made available to each unitholder, the content of which is specified in a Financial Markets Authority regulation.

The regulation may require that:

1. The fund's assets be held by several custodians;

2. The income from the fund's assets be reinvested in the fund.

The fund may only be dissolved if its dissolution does not result in the loss of the advantages granted to the employees as determined in Article L. 225-194 of the Commercial Code and Articles L. 442-7, L. 442-8 and L. 443-6 of the Labour Code.

The provisions of the present article apply to funds whose holdings of securities issued by the company or by any associated company within the meaning of Article L. 444-3 of the Labour Code do not exceed one third of its assets.

The regulation stipulates, as applicable, the social, environmental and ethical considerations that the management company must respect when purchasing and selling securities and when exercising the rights attached to them. The fund's annual report details their application as prescribed by the Financial Markets Authority.

If the company is governed by the provisions of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, the in-house unit trust may invest in the securities giving access to the capital that it issues, without prejudice to any specific provisions governing the subscription of such securities by the employees, and as determined by decree.

The provisions of the present article are also applicable to ethical funds which may be subscribed within the framework of the collective retirement savings plan referred to in Article L. 443-1-2 of the aforementioned code. The

assets of such ethical funds consist of:

a) A portion of between 5% and 10% composed of securities issued by socially responsible companies approved pursuant to Article L. 443-3-1 of the Labour Code, or by venture capital companies within the meaning of Article 1-1 of Act No. 85-695 of 11 July 1985 instituting various economic and financial provisions, or by venture capital funds as described in Article L. 214-36, subject to at least 40% of their assets consisting of securities issued by socially responsible companies within the meaning of Article L. 443-3-1 of the Labour Code;

b) While the remainder consists of transferable securities admitted to trading on a regulated market, units of undertakings for collective investment in transferable securities invested in those same securities and, subsidiarily, liquid assets.

Not more than 5% of the assets of funds which may be subscribed within the framework of a company save-as-you-earn scheme may be invested in securities which are not admitted to trading on a regulated market, without prejudice to the provisions of a) above, or in the securities of the company which established the scheme or of companies associated with it within the meaning of Article L. 444-3 of the Labour Code. This limitation does not apply to the units and shares of undertakings for collective investment in transferable securities held by the fund.

Article L214-40

(Act No. 2001-152 of 19 February 2001 Art. 23 II Official Journal of 20 February 2001)
(Act No. 2003-706 of 1 August 2003 Art. 40 V Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The provisions of the present article apply to funds having more than one third of their assets invested in securities issued by the company or by any company associated with it within the meaning of Article L. 444-3 of the Labour Code.

The fund's rules stipulate the procedure for appointing the Supervisory Board, and its composition, either by election on the basis of the number of units held by each unitholder, or as stipulated in the second paragraph of Article L. 214-39.

When the members of the Supervisory Board are all unitholders' representatives elected on the basis of the number of units held and are themselves employees of the company and unitholders, the board exercises the voting rights attached to the securities issued by the company or by any of its associated companies; it informs the unitholders of the votes cast and explains its decisions.

When the composition and appointment of the Supervisory Board are governed by the second paragraph of Article L. 214-39, the fund's regulations provide for the board to exercise the voting rights attached to the securities issued by the company or by any company associated with it, and it informs the unitholders of the votes cast and explains its decisions. The regulations may nevertheless provide for the voting rights relating to those securities to be exercised individually by the unitholders, and for those of fractional units to be exercised by the Supervisory Board. In which case, the board makes the company's economic and financial information for the last three accounting periods available to the unitholders.

In companies which have a works council, the information provided to it pursuant to Articles L. 432-4 and L. 432-4-2 of the Labour Code must also be provided to the Supervisory Board, as well as, if applicable, a copy of the report from the accountant appointed pursuant to Article L. 434-6 of that same code.

In companies which have not established a works council, the Supervisory Board may avail itself of the services of an accountant as provided for in Article L. 434-6 of the Labour Code or call in the company's auditors to provide explanations concerning the company's accounts; it may also invite the chief executive to explain the events which had a significant influence on the valuation of the securities.

The Supervisory Board decides on the allocation of securities for purchase or exchange offers. The fund's rules specify the cases in which the board must obtain a prior opinion from the unitholders.

The Supervisory Board is required to examine the financial, administrative and accounting management and may consult the management company, the custodian and the fund's auditor, who are required to cooperate with it. It decides mergers, demergers and liquidations. The fund's rules specify all changes to the rules themselves which cannot be decided without the Supervisory Board's consent. Without prejudice to the management company's remit as described in Article L. 214-25, or that of the liquidator as described in Article L. 214-31, the Supervisory Board may initiate legal proceedings to defend or assert the unitholders' rights or interests.

The Supervisory Board approves an annual report which is made available to each unitholder, the content of which is specified in a Financial Markets Authority regulation. It ensures regular transmission of information from the company to the unitholders.

The unitholders may opt for a cash redemption of the fund's units.

In a company whose shares are admitted to trading on a regulated market, a fund primarily consisting of shares of that company held by employees or former employees must be managed by an independent intermediary.

The Supervisory Board of such a fund, or a group of employees or former employees holding rights over at least 1% of its assets, may bring court action to challenge the management company on the grounds of lack of independence in relation to the company whose shares are admitted to trading on a regulated market or to that company's management. A challenge upheld by the court gives entitlement to damages in favour of the co-owners.

Subject to a limit of 20% of the voting rights, portions of such rights associated with fractional shares may be exercised by the management company.

If the company is governed by the aforementioned Act No. 47-1775 of 10 September 1947, the in-house unit trust may invest in the securities giving access to the capital that it issues, without prejudice to any specific provisions governing the subscription of such securities by the employees, and as determined by decree.

Article L214-40-1

(Act No. 2001-152 of 19 February 2001 Art. 10 I Official Journal of 20 February 2001)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The object of an open-end investment company may be the management of a portfolio of transferable securities issued by the company or by any company associated with it as provided for in Article L. 443-3 of the Labour Code. The fifth and sixth paragraphs of Article L. 214-40 apply to its Board of Directors.

Subsection 12
High-Tech Unit Trusts — Article L214-41

Article L214-41

(Finance Act No. 2001-1275 of 28 December 2001 Art. 78 I c) for 2002 Official Journal of 29 December 2001)
(Act No. 2003-721 of 1 August 2003 Art. 28 Official Journal of 5 August 2003)
(Finance Act No. 2004-1484 of 30 December 2004 Art. 38 I b) for 2005 Official Journal of 31 December 2004)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)
(Order No. 2005-722 of 29 June 2005 Art. 9 Official Journal of 30 June 2005)
(Amending Finance Act No. 2005-1720 of 30 December 2005 Art. 32 II for 2005 Official Journal of 31 December 2005)

I. - High-tech unit trusts are venture capital funds having at least 60% of their assets invested in transferable securities, shares of limited liability companies and current account advances, as specified in 1 and 2 a) of Article L. 214-36, issued by companies having their registered office in a European Community Member State, or another European Economic Area Member State which has entered into a tax treaty with France which contains an administrative assistance clause to combat fraud and tax evasion, which are subject to corporation tax under common law or would be liable therefor if they conducted their business in France, which have fewer than two thousand employees, whose capital is not primarily held, directly or indirectly, by one or more legal entities having dependency links with another legal entity within the meaning of III and which meet one of the following conditions;

a) They incurred cumulative research costs over the three previous accounting periods, as specified in II a) to f) of Article 244 quater B of the General Tax Code, of an amount at least equal to one third of the highest turnover achieved during those three accounting periods;

b) Or can prove that they created products, processes or techniques, the innovative nature and economic development potential of which are recognised, as is the corresponding borrowing requirement. This assessment is made over a period of three years by an organisation designated by decree which is responsible for supporting innovation.

The provisions of 4 and 5 of Article L. 214-36 apply equally to high-tech unit trusts, subject to compliance with I bis of the present article and their specific investment quota of 60%.

I bis. - The securities referred to in 3 of Article L. 214-36 are also eligible for the investment quota of 60% referred to in I, up to a maximum of 20% of the fund's assets, provided that the issuing company meets the conditions referred to in I, with the exception of the non-listing condition.

I ter. - Revoked.

I quater. - Revoked.

I quinquies. - 1. Subject to compliance with the limit of 20% specified in I bis, the capital securities referred to in 1 and 3 of Article L. 214-36 issued by companies which meet the following conditions are also eligible for the investment quota referred to in I:

a) The company meets the conditions stipulated in I. The condition stipulated in I b) is assessed by the organisation which is also referred to in I b) in regard to the company, its activities and those of its subsidiaries referred to in c), as prescribed by decree;

b) The company's corporate purpose is the holding of equity interests which meet the conditions stipulated in c) and may be engaged in industrial or commercial activities within the meaning of Article 34 of the General Tax Code;

c) The company exclusively holds equity interests representing at least 75% of the capital of companies:

1º Whose securities are of the type referred to in 1 and 3 of Article L. 214-36;

2º Which meet the conditions referred to in the first paragraph of I, with the exception of the conditions relating to staff numbers and capital;

3º Having as their corporate purpose the designing or creation of products, processes or techniques which meet the conditions of I b) or being engaged in industrial or commercial activities within the meaning of Article 34 of the General Tax Code;

d) The company has at least one equity interest in a company as indicated in c) whose corporate purpose is the designing or creation of products, processes or techniques which meet the conditions of I b).

2. A Conseil d'Etat decree specifies the method for calculating the condition relating to staff numbers imposed in the first paragraph of I for the company referred to in 1 and for assessment of the condition of exclusivity in regard to the holding of equity interests specified in 1 c).

II. - The conditions relating to staff numbers and recognition by an organisation tasked with supporting innovation of a high-tech unit trust's cumulative research costs and the innovative nature of the companies whose securities are included in its assets are assessed when the fund first subscribes to or purchases such securities.

In the event of a parent company referred to in the first paragraph of I quinquies assigning the securities of subsidiaries referred to in I quinquies d and thereby jeopardising the holding threshold of 75%, the securities of that parent company would no longer be included in the investment quota of 60%.

III. - When determining whether dependency links exist between two companies for the purposes of I, such links are

deemed to exist:

- when one company directly, or through an intermediary, holds a majority of the equity capital of the other company or effectively exercises decision-making powers within it;
- or when they are both placed under the control of the same third company as indicated in the previous paragraph.

Subsection 13
Local Investment Funds Article L214-41-1

Article L214-41-1

(Act No. 2003-721 of 1 August 2003 Art. 26 I Official Journal of 5 August 2003)
(Finance Act No. 2004-1484 of 30 December 2004 Art. 38 I c) for 2005 Official Journal of 31 December 2004)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)
(Act No. 2005-882 of 2 August 2005 Art. 98 Official Journal of 3 August 2005)

1. Local investment funds are venture capital funds having at least 60% of their assets invested in transferable securities, shares of limited liability companies and current account advances, at least 10% of which is in new companies conducting their business or legally constituted for less than five years, as specified in 1 and 2 a) of Article L. 214-36, issued by companies having their registered office in a European Community Member State, or another European Economic Area Member State which has entered into a tax treaty with France which contains an administrative assistance clause to combat fraud and tax evasion, which are subject to corporation tax under common law or would be similarly liable therefor if they conducted their business in France and which meet the following conditions:

a) They conduct their business mainly through establishments located in the geographic area chosen by the fund and in one, two or three adjoining regions, or, if this condition is inapplicable, they have established their registered office there. The fund may also choose a geographic area consisting of one or more overseas departments;

b) They come within the definition of small and medium-sized enterprises provided in Appendix I of Commission Regulation EC 70/2001, of 12 January 2001, relating to the application of Articles 87 and 88 of the EC Treaty to State aid in favour of small and medium-sized enterprises;

c) They do not have the holding of equity interests as their corporate purpose, unless they only hold securities giving access to the capital of companies whose purpose is not the holding of equity interests and which meet the conditions of eligibility laid down in a) and b) above.

The conditions specified in a) and b) are verified on the date on which the fund makes its investments.

The units of the venture-capital unit trusts referred to in Article L. 214-36 and the shares of the venture capital companies governed by Article 1-1 of Act No. 85-695 of 11 July 1985, which introduces various economic and financial provisions, are also taken into account for calculation of the investment quota of 60%, in proportion to the percentage of direct investment of the structure in question's assets in companies which meet the conditions laid down in the first paragraphs of a) and b), with the exception of companies whose object is the holding of equity interests.

However, a local investment fund cannot invest more than 10% of its assets in the units of venture capital funds and the shares of venture capital companies.

Contributions made to mutual guarantee societies or other guarantee societies conducting business in the geographic area chosen by the fund are also taken into account for calculation of the quota of 60%.

1 bis. The securities referred to in 3 of Article L. 214-36 are also eligible for the investment quota of 60% referred to 1, up to a maximum of 20% of the fund's assets, provided that the issuing company meets the conditions referred to in 1, with the exception of the non-listing condition, and does not have the holding of equity interests as its corporate purpose.

2. The provisions of 4 and 5 of Article L. 214-36 apply to local investment funds, subject to them meeting the quota of 60% and the conditions of eligibility as defined in 1 and 1 bis of the present article. Notwithstanding the provisions of 5 of that same article, however, local investment funds created by 31 December 2004 must have met their investment quota of 60% when the closing valuation for the second accounting period following that of their creation takes place, at the latest.

3. Holdings of the units of a local investment fund are subject to the following limits:

a) 20% by a single investor;

b) 10% by a single investor which is a public corporation;

c) 30% by public corporations collectively.

4. Local investment funds cannot benefit from the provisions of Articles L. 214-33 and L. 214-37.

5. A Conseil d'Etat decree determines the implementing regulations of the quota referred to in 1 in the event of the fund issuing further calls for funds or seeking new subscriptions. It also determines the rules for evaluating the quota, the criteria applied to determine whether a company conducts its business mainly in the geographic area chosen by the fund, and the specific rules relating to assignment and the limits for the holding of assets.

Subsection 14
Managed Futures Funds Article L214-42

Article L214-42

(Act No. 2003-706 of 1 August 2003 Art. 63 III Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 24 Official Journal of 7 May 2005)

The rules of a unit trust created to operate on the futures markets stipulate the amount of the cash or cash equivalents that that fund must hold, which amount shall not be below a minimum level determined by decree.

The futures markets list is determined by order of the Minister for the Economy.

The first and third paragraphs of Article L. 214-35-1 are applicable to managed futures funds. The General Regulations of the Financial Markets Authority establish the circumstances in which other investors may subscribe to and purchase the units or shares of such entities, based in particular on the nature of the investors and the entity's risk level. Such funds cannot be canvassed for.

SECTION II
Securitisation funds

Articles L214-43 to L214-49

Article L214-43

(Act No. 2003-706 of 1 August 2003 Art. 60 2, Art. 64 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 26 Official Journal of 7 May 2005)
(Act No. 2005-842 of 26 July 2005 Art. 16 Official Journal of 27 July 2005)

A securitisation fund is a co-ownership having as its object the acquisition of receivables and the issuing of units which represent those receivables. It may issue debt instruments.

The fund may have two or more compartments if its rules so provide. Each compartment gives rise to the issuance of units which represent the assets of the fund which are allocated to it. Notwithstanding Article 2093 of the Civil Code, and unless otherwise stipulated in the fund's constituting documents, the assets of a given compartment may only be used to meet that compartment's debts, commitments and obligations and only benefit from that compartment's receivables.

The fund does not have legal personality. The provisions of the Civil Code which relate to jointly held property do not apply to securitisation funds, and nor do those of Articles 1871 to 1873 of that same code which relate to undisclosed partnerships.

The circumstances in which the fund may acquire receivables and issue new units after the initial issuance of units, and the investment rules applicable to sums temporarily available and pending allocation, are specified by decree. The circumstances in which the fund or, if applicable, the fund's compartments, may borrow, issue debt instruments as indicated in Article L. 211-1, enter into contracts which constitute forward financial instruments, and hold cash are determined in a Conseil d'Etat decree.

The units and debt instruments may give rise to different rights over principal and interest.

The units shall not entitle their holders to request redemption by the fund. The minimum amount for a unit issued by a securitisation fund is determined by decree.

The fund or, if applicable, the fund's compartments, shall not assign the receivables that they acquire until they have matured or expired, with the exception of the circumstances and conditions determined in a Conseil d'Etat decree. It may not pledge the receivables that it holds.

Assignment of receivables is effected simply upon delivery of a transfer deed the terms of which are determined by decree. It takes effect between the parties and becomes enforceable against third parties on the date affixed on the transfer deed when it is handed over, regardless of the receivables' origination date, maturity date or due date, without any other formality being necessary, and regardless of the law applicable to the receivables and the law of the debtors' country of domicile. Notwithstanding any proceedings instituted against the assignor pursuant to Book VI of the Commercial Code after the assignment, the assignment shall retain its effects after the initial judgement, unless the receivables derive from successive performance contracts of an indeterminate amount. Delivery of the transfer deed automatically gives rise to the transfer of the sureties, the collateral and any ancillaries attached to each receivable, including mortgages, and its enforceability against third parties without any other formality being necessary.

The enforcement or establishment of such security interests entitles the fund to acquire possession of or title to the assets which are the subject thereof.

The transfer agreement may provide for a claim in favour of the assignor on all or part of any liquidation surplus of the fund or, if applicable, a compartment of the fund.

For all transactions undertaken on behalf of the co-owners, the name of the fund or, if applicable, of a compartment of the fund, may be validly substituted for that of the co-owners.

Article L214-44

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 65 1, Official Journal of 2 August 2003)

A document containing an assessment of the characteristics of the units and, if applicable, the debt instruments to be issued by the fund, the receivables that it proposes to acquire and the contracts which constitute forward financial instruments that it intends to enter into and an evaluation of the risks that they represent is drawn up by an entity which appears on a list drawn up by the Minister for the Economy after consulting the Financial Markets Authority. It is appended to the prospectus and sent to subscribers of units and, if applicable, debt instruments.

The units and debt instruments which the fund issues cannot be canvassed for.

Article L214-45

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Securitisation funds must provide the Bank of France with the information it needs to compile monetary statistics.

Article L214-46

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Act No. 2003-706 of 1 August 2003 Article 64 II, Official Journal of 2 August 2003)

Servicing of the assigned receivables continues to be undertaken by the assignor under terms and conditions laid down in an agreement entered into with the securitisation fund's management company.

Some or all of the servicing may nevertheless be entrusted to a credit institution or to the Caisse des dépôts et consignations, provided that the debtor is informed thereof by ordinary letter.

The management company and the institution responsible for servicing the assigned receivables may agree to the sums recovered being credited to an account specifically dedicated to the fund or, if applicable, the compartment, against which creditors of the institution responsible for servicing may not pursue payment of their claims even in the event of it being put into judicial reorganisation or liquidation. The terms and conditions applicable to that account are determined by decree.

Article L214-47

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A securitisation fund is set up on the joint initiative of a company responsible for managing the fund and a legal entity which acts as custodian of the fund's assets.

The fund's management company must be authorised by the Stock Exchange Commission, which may withdraw its authorisation on justified grounds.

The management company and the legal entity acting as custodian of the assets draw up a memorandum relating to the transaction to give subscribers prior information, pursuant to the provisions of Articles L. 411-1, L. 411-2, L. 412-1 and L. 621-8.

A decree determines the nature and characteristics of the receivables that securitisation funds may acquire and of the protection against the risks of default of the debtors under such receivables.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L214-48

(Act No. 2003-706 of 1 August 2003 Art. 46 V 1, Art. 65 3, Art. 116 Official Journal of 2 August 2003)
(Order No. 2005-1126 of 8 September 2005 Art. 21 Official Journal of 9 September 2005)

I. - The company responsible for the management referred to in Article L. 214-47 is a commercial company having as its sole object the management of securitisation funds. It represents the fund in relation to third parties and in any legal proceedings, whether as plaintiff or defendant.

II. - The legal entity acting as custodian of the assets of the fund referred to in Article L. 214-47 is a credit institution approved in France, a branch established in France of a credit institution having its registered office in a European Economic Area Member State, or any other institution approved by the Minister for the Economy. It acts as custodian of the cash and receivables acquired by the fund and verifies that the management company's decisions comply with the terms and conditions laid down in the General Regulations of the Financial Markets Authority. However, custody of the receivables may be provided by the assignor or by the institution responsible for servicing the receivables as determined by decree.

III. - The unitholders are liable for the fund's and, if applicable, the compartment's debts only within the limits of the fund's assets and in proportion to their own share.

IV. - The fund's rules determine its accounting periods, which shall not exceed twelve months. The first accounting period may nevertheless be of longer duration, but shall not exceed eighteen months.

V. - Separate accounts are maintained in the fund's books for each of the fund's compartments.

Within six weeks of the end of each half-year of an accounting period, the management company draws up an inventory of the assets for each fund that it manages, under the custodian's supervision.

VI. - The fund's auditor is appointed by the management company's Board of Directors, manager or Executive Board, with the Financial Markets Authority's consent.

The auditor informs the management company's executives and the Financial Markets Authority of any irregularities or inaccuracies uncovered in performance of the auditing mission.

The fund's unitholders exercise the rights granted to shareholders under Articles L. 225-230 and L. 225-231 of the Commercial Code.

Article L214-49

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Within six months of the expiry of the fund's last receivable or, if applicable, of a compartment of the fund, the management company proceeds with the liquidation of the fund or of that compartment.

SECTION III
Real-Property Investment Partnerships

Articles L214-50 to L214-84-3

Subsection 1

Article L214-50
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The sole purpose of a property investment company is the acquisition and management of real property for letting. For the purposes of such management they may carry out improvements and, to a lesser extent, extensions and reconstruction work; they may purchase the equipment and installations necessary to render the properties usable. They may, moreover, transfer real-property assets elements provided that they have not bought them with a view to selling them and that such transfers do not take place frequently.

Article L214-51
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Real-Property Investment Partnerships may make public offerings, provided that the units held by the founding members represent a total value at least equal to the minimum share capital share as determined in Article L. 214-53 and that they can show that they have a bank guarantee authorised by the Stock Exchange Commission which is intended to meet the redemption referred to in Article L. 214-54.
The units thus held by the founders are inalienable for three years from issuance of the Stock Exchange Commission's certificate.
NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:
1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;
2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L214-52
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The draft articles of association of a company authorised to make public offerings are drawn up and signed by one or more founders.
The initial capital must be fully subscribed.

Article L214-53
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 5 IV, Official Journal of 22 September 2002 effective 1 January 2002)
The minimum share capital cannot be less than 760,000 euros. The units are in registered form and have a minimum par value of 150 euros.

Article L214-54
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
At least 15% of the maximum capital of a property investment company, as determined by its articles of association, must be subscribed by the public within one year of the opening date for subscriptions.
If this obligation is not met, the company is dissolved and the Partners are repaid the amount they subscribed.

Article L214-55
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 52, Official Journal of 2 August 2003)
The partners shall not incur liability unless a prior and unsuccessful action has been brought against the civil partnership. Each partner shall incur liability towards third parties in proportion to the portion of the capital that he holds and subject to a limit of twice the amount of that portion. The civil partnership's articles of association may provide for each partner's liability to be limited to the amount of his portion of the company's capital.
The company is required to take out an insurance policy to cover its civil liability associated with the properties it owns.

Article L214-56
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
In the event of a partner in a civil partnership which makes public offerings being affected by personal bankruptcy, judicial reorganisation or liquidation, the offer to sell that partner's units referred to in Article L. 214-59 is entered in the company's register.

Article L214-57
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
In the event of contributions in kind being made or of specific advantages being stipulated in favour of certain persons, whether they be partners or otherwise, a valuer of contributions in kind is appointed by a court decision at the request of one or more of the founders, or the management company. The said valuer assesses the value of the contributions in kind and specific advantages under his own responsibility. His report, appended to the draft articles of association, is kept available to the subscribers as determined by decree.
The founding general meeting or, in the case of a capital increase, an extraordinary general meeting, decides on the

valuation of the contributions in kind and the granting of specific advantages. It may reduce them only on a unanimous vote of all the subscribers. Failing the express approval of the contributors and the beneficiaries of specific advantages, duly recorded in the minutes, the company is not formed or the capital increase is not effected.

Any civil partnership formed without a public offering which intends to make such an offering subsequently must, before so doing, commission an audit of its assets and its liability, and also, if applicable, the advantages granted pursuant to the preceding paragraphs.

No contribution of know-how may be represented by the capital shares.

Article L214-58

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of the second paragraph of Article 1865 of the Civil Code relating to publication of capital share transfers are not applicable to real-property investment partnerships.

Subsection 2
Share Subscription

Articles L214-59 to L214-65

Article L214-59

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-602 of 9 July 2001 Article 9 V 6, Official Journal of 11 July 2001)

I. The buy and sell orders are, under pain of being declared null and void, entered in a register kept at the company's registered office. The execution price reflects the bid-offer differential: it is determined and published by the management company at the end of each order registration period.

Each transaction gives rise to an entry in the partners' register which is deemed to constitute a deed of transfer as envisaged in Article 1865 of the Civil Code. The resultant transfer of ownership is binding on the company and third parties thereafter. The management company guarantees the satisfactory completion of such transactions.

A Stock Exchange Commission regulation lays down the implementation procedures for the present indent I, and in particular the information requirements for the units on the secondary market and determination of the registration period for orders.

II. When the management company notes that the register referred to in I has contained sell orders representing at least 10% of the units issued by the company for more than twelve months, it informs the Stock Exchange Commission thereof without delay. The same procedure is applicable if the withdrawal requests which are not processed within twelve months represent at least 10% of the units.

Within two months of reporting thereon, the management company convenes an extraordinary general meeting at which it proposes a partial or total asset disposal and any other appropriate measure. Such disposals are deemed to be compliant with Article L. 214-50.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L214-60

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The share subscription price is determined on the basis of the reconstitution value defined in Article L. 214-78.

Any variance between the subscription price and the reconstitution value of the units in excess of 10% must be explained by the management company and reported to the Stock Exchange Commission in the manner determined in an order of the Minister for the Economy.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L214-62

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-602 of 9 July 2001 Article 9 V 7, Official Journal of 11 July 2001)

Having heard the auditors' report, the management company either proposes that the general meeting reduce the unit price, provided that it is not reduced by more than 30%, or that it effect a partial or total asset disposal. Such disposals are deemed to meet the conditions specified in Article L. 214-50.

The management company's report and the auditors' report, as well as the draft resolutions for the general meeting, are sent to the Stock Exchange Commission one month before the date of the general meeting.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L214-63

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

All unit subscriptions are recorded in a register established as determined by decree.

At least one quarter of the par value of units subscribed in cash is paid upon subscription, as well as the whole of the issue premium, if applicable. The balance must be paid in one or more instalments within five years of subscription.

New units cannot be created with the intention of increasing the share capital until the initial capital has been fully paid up and any offers to sell units indicated in the register referred to in Article L. 214-59 at a price lower than or equal to that requested from new subscribers have been met.

A capital reduction which is not brought about by losses cannot be invoked against creditors whose debt antedates that reduction. In the event of non-payment, such creditors may demand repayment to the company of the sums reimbursed to the members.

Article L214-64

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A capital increase may be proceeded with if at least three quarters of the value of the subscriptions received for the previous increase have been invested or allocated to investments in progress, pursuant to the corporate purpose as defined in Article L. 214-50.

Companies governed by the provisions of Article L. 231-1 of the Commercial Code may create new units if at least three quarters of the net receipts for the previous twelve months are invested or allocated to investments in progress, pursuant to the corporate purpose as defined in Article L. 214-50.

Article L214-65

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Save for inheritance, liquidation of community of property between spouses, and assignment to a spouse, an ascendant or a descendant, the assignment of units to a third party, whatever the reason, may be subject to the company's approval through a clause in the articles of association.

If an approval clause exists, the approval request, indicating the assignee's surname, forenames and address, the number of units in respect of which assignment is envisaged and the price offered, is sent to the company. Approval is notified either by letter or through the absence of a reply within two months of the request being made.

If the company does not approve the proposed assignee, the management company is required, within one month of notification of refusal, either to sell the units to a member or to a third party, or, with the assignor's consent, to the company, in order to reduce the capital. If the parties fail to agree, the price of the units is determined as provided for in Article 1843-4 of the Civil Code. Any contrary provision in Article 1843-4 is deemed not to exist.

If the sale is not concluded upon expiry of the period indicated in the previous paragraph, approval is deemed to have been given. The said period may nevertheless be extended by a court decision at the company's request.

If the company has given its consent for a proposed pledging of units as envisaged above, that consent shall constitute approval in the event of a forced sale of the pledged units pursuant to the provisions of the first paragraph of Article 2078 of the Civil Code, unless the company prefers to buy back the units immediately after the sale in order to reduce its capital.

Subsection 3
Administration

Articles L214-66 to L214-72

Article L214-66

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A property investment company's management is carried out by a management company designated in its articles of association or by a majority of the votes cast by the members present or represented at a general meeting. The management company, regardless of how it was designated, may be dismissed by a general meeting voting on that same majority basis. Any contrary provision is deemed not to exist. If dismissal is decided without just cause, it may give rise to compensation.

The management company may, moreover, be dismissed by the courts for a legitimate reason at the request of any member.

Article L214-67

(Order No. 2000-916 of 19 September 2000 Art. 5 IV Official Journal of 22 September 2000 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Art. 40 V Official Journal of 2 August 2003)
(Order No. 2005-1278 of 13 October 2005 Art. 3 Official Journal of 14 October 2005)

The management company is created in the form of either a public limited company with minimum capital of at least two hundred and twenty-five thousand euros, or a general partnership. In the latter case, at least one of the members must be a public limited company with minimum share capital as aforementioned.

The management company must be approved by the Financial Markets Authority.

The Financial Markets Authority may withdraw a management company's approval on justified grounds.

Management companies managing real-property investment partnerships may not create real-property collective investment undertakings until they have brought their articles of association, their organisation and their facilities into compliance with Section 5 and are approved by the Financial Markets Authority as provided for in the General Regulations of the Financial Markets Authority.

When one of the real-property investment partnerships managed by a management company is converted into a real-property collective investment undertaking which will be managed by that company when it meets the conditions laid down in Article L. 214-119, the other real-property investment partnerships may continue to be managed by that company.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-68

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The management company must provide adequate guarantees in respect of its organisation, its technical and financial resources, and the respectability and experience of its managers. It must take the necessary steps to ensure the security of the transactions it carries out. It must act solely in the interests of the subscribers.

It represents the managed company in regard to third parties and may bring legal proceedings to defend or assert the unitholders' rights or interests.

Article L214-69

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The management company must have sufficient financial resources to enable it to effectively conduct its business and meet its responsibilities.

The management company of a property investment company cannot receive funds on behalf of the property investment company.

Article L214-70

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Supervisory Board is entrusted with assisting the management company; it is composed of at least seven members of the property investment company who are appointed by an ordinary general meeting of the property investment company; it carries out the verifications and inspections that it considers appropriate at any time throughout the year; it may request sight of any document or ask the management company for a report on the property investment company's situation and present a report on the management thereof to the ordinary general meeting.

The articles of association may make execution of the transactions they enumerate contingent on its prior consent.

The property investment company cannot avail itself of the limitations or restrictions deriving from the present article in relation to third parties.

Article L214-71

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Whoever, directly or through an intermediary, effectively exercises the management, administration or control of a company through or in place of its legal representatives is subject to the same obligations and shall incur the same penalties, if any, that those representatives do.

Article L214-72

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any exchange or conveyance of, or creation of a charge on, the company's real property must be authorised by the ordinary general meeting of members.

The management company may only enter into borrowings, assume debts or make purchases which are payable in arrears on behalf of the civil partnership that it manages within a maximum limit set by the general meeting.

The company cannot avail itself of the limitations or restrictions deriving from the present article in relation to third parties.

Subsection 3
General Meetings

Articles L214-73 to L214-77

Article L214-73

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members shall meet at least once each year at an ordinary general meeting to approve the accounts for the previous accounting period.

Each member's number of votes is proportionate to its portion of the share capital. Decisions are taken on a majority of the votes cast by the members present or represented. A general meeting may deliberate validly when first convened only if the members present or represented hold at least one quarter of the capital, or at least half of the capital if an amendment to the articles of association is proposed. When it is reconvened, no quorum is required.

The documents to be sent to the members prior to the holding of a general meeting and the notice period and convening arrangements for such meetings are determined by decree.

The meeting determines the amount of the profits distributed to the members by way of dividend. In addition, the meeting may decide to distribute the sums deducted from the reserves at its disposal; in which case, the decision expressly indicates the reserve headings from which the deductions are made.

Any dividend distributed without an inventory being taken or on the basis of a fraudulent inventory constitutes a

sham dividend.

However, advances on the dividends of previous accounting periods or the current period which are distributed before the accounts for those periods have been approved do not constitute sham dividends if a balance sheet drawn up during, or at the end of, the period and certified by an auditor within the meaning of Article L. 214-79 shows that the company made net profits greater than the amount shown in the accounts for the period after making the necessary allocations to depreciation and provisions, after deduction of any earlier losses, and with due allowance made for any profits carried forward.

The management company is authorised to decide to distribute an advance on the dividend and to determine the amount and date of the distribution.

Article L214-74

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any member may be empowered by other members to act as their representative at a meeting with no limitation other than those resulting from the legal provisions or the articles of association and relating to the maximum number of votes an individual may cast, both on his own behalf and as a representative.

Any provisions contrary to those of the previous paragraph are deemed not to exist.

For any member's proxy which does not indicate a representative, the chairman of the general meeting casts a vote in favour of the adoption of draft resolutions submitted or approved by the management company and a vote against the adoption of any other draft resolution. For any other vote to be cast, the member must choose a representative who is agreeable to voting as directed by the principal.

Article L214-75

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any member may vote by correspondence using a form worded as determined in an order of the Minister for the Economy. Any contrary provision in the articles of association is deemed not to exist.

Only forms received by the company before the meeting is held, and within a time limit determined in that same order, are taken into account for calculation of the quorum. Forms which do not indicate any voting intention or which call for abstentions are deemed to be negative votes.

Article L214-76

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any agreement between the company and the management company, or any member of the latter, must be approved by the company's general meeting of members on the basis of reports from the Supervisory Board and the auditors.

Even if no fraud is involved, responsibility for the prejudicial consequences for the company of agreements which are not approved is attributed to the management company responsible or to any member thereof.

Article L214-77

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Apart from the instances in which a general meeting is called pursuant to the present section, the articles of association may stipulate that certain decisions be taken through written consultation between the members.

Subsection 5
Accounting Reserves

Articles L214-78 to L214-79

Article L214-78

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A the end of each accounting period, the management company's executives draw up an inventory of the various elements of the assets and liabilities existing on that date.

They also prepare the annual accounts and draw up a written management report.

They are required to apply the general accounting plan, duly adapted to the needs and resources of such companies and taking the nature of their business into account, pursuant to procedures which shall be determined by a directive from the Accounting Regulations Committee.

The management report presents the company's situation during the previous accounting period, its foreseeable development, and the important events that have occurred between the date of closure of that accounting period and the date on which the report is drawn up.

In a statement appended to the management report, the management company's executives indicate the book value, the realisable value and the reconstitution value of the civil partnership that they manage. The realisable value is equal to the sum of the market value of the real-property assets and the net book value of the company's other assets. The company's reconstitution value is equal to the realisable value plus the amount of the fees associated with reconstitution of its assets.

These values are the subject of resolutions which are submitted to the general meeting for approval. During an accounting period, should it prove necessary, the Supervisory Board referred to in Article L. 214-70 may authorise a change to those values based on a grounded report from the management company.

The documents referred to in the present article are made available to the auditors as determined by decree.

Article L214-79

(Act No. 2003-706 of 1 August 2003 Art. 46 V 1, Art. 116 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 27 Official Journal of 7 May 2005)
(Order No. 2005-1126 of 8 September 2005 Art. 21, Art. 22 Official Journal of 9 September 2005)

Auditing is carried out by one or more auditors.

The auditors inform the Financial Markets Authority of any irregularities and inaccuracies they uncover in the performance of their duties.

They are legally liable as provided for in Article L. 822-17 of the Commercial Code, but do not incur third-party liability for offences committed by the persons who manage or administer the company unless, having knowledge thereof, they failed to disclose them in their report to the General Meeting.

Shares for damages against the auditors lapse as provided for in Article L. 225-254 of the Commercial Code.

No revaluation of assets can take place unless a special report to the General Meeting has been presented by the auditors and approved by the meeting.

Subsection 6
Mergers — Articles L214-80 to L214-83

Article L214-80
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

With the exception of the cases envisaged in Articles L. 214-124 and L. 214-135, a property investment company may only merge with another property investment company managing assets of comparable composition.

The present article's implementing regulations are determined in the decree referred to in Article L. 214-85.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-81
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The merger takes place under the supervision of the auditors of each of the companies involved. The merger plan is sent to them at least forty-five days before the extraordinary general meetings called to decide on the merger.

The auditors draw up a report on the terms and conditions applicable to the merger.

The auditors' remit is conducted under terms and conditions identical to those laid down for special merger auditors in Article L. 236-10 of the Commercial Code.

Article L214-82
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The merger is approved by an extraordinary general meeting of each of the companies involved.

Article L214-83
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The extraordinary general meeting of the acquiring company gives a ruling on the valuation of the contributions in kind, pursuant to the provisions of Article L. 214-57.

Subsection 7
Rules of Good Conduct — Article L214-83-1

Article L214-83-1
(Act No. 2001-602 of 9 July 2001 Art. 9 V 4 Official Journal of 11 July 2001)
(Act No. 2003-706 of 1 August 2003 Art. 40 V Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 28 Official Journal of 7 May 2005)

The management companies of real-property investment partnerships and the persons placed under their authority or acting on their behalf are required to comply with the rules of good conduct designed to ensure investor protection and the reliability of the transactions as laid down by the Financial Markets Authority, pursuant to Article L. 533-4.

Subsection 8
Transitional Provisions — Articles L214-84 to L214-84-3

Article L214-84
(Act No. 2003-706 of 1 August 2003 Art. 48 I 1 Official Journal of 2 August 2003)
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 4 Official Journal of 14 October 2005)

I. - No new real-property investment partnerships shall be created after 31 December 2009.

With effect from that same date, further capital increases shall not be permitted.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-84-1

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 4 Official Journal of 14 October 2005)

As provided for in a Conseil d'Etat decree, a property investment company may transfer its assets to real-property collective investment undertakings having a different legal status through a demerger.

Notwithstanding Article L. 214-50, real-property investment partnerships may, if appropriate, contribute some or all of their assets to new real-property investment partnerships prior to such divestment to enable the latter's shares to be transferred to the real-property collective investment undertakings within the framework of the divestment.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-84-2

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 4 Official Journal of 14 October 2005)

Real-property investment partnerships have a period of five years, with effect from approval of the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings, in which to hold an extraordinary General Meeting of the partners to rule on the agenda item relating to the option to convert it into a real-property collective investment undertaking.

Subject to the quorum and majority conditions determined by the company's articles of association as of the date of publication of Order No. 2005-1278 of 13 October 2005 determining the law and jurisdiction applicable to real-property collective investment undertakings and the arrangements for converting real-property investment partnerships into real-property collective investment undertakings, that meeting shall choose one of the two forms of real-property collective investment undertaking referred to in the first paragraph of Article L. 214-89 to be adopted upon conversion.

If the real-property collective investment undertaking is created in the form of property bond funds, the rules of the fund must provide for establishment of the supervisory board pursuant to Article L. 214-132.

When a property investment company elects to become a real-property collective investment undertaking, the conversion shall not entail any direct or indirect costs for the shareholders.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-84-3

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 4 Official Journal of 14 October 2005)

Pursuant to the General Regulations of the Financial Markets Authority, the management companies of real-property investment partnerships shall inform the following persons of the law and jurisdiction applicable to real-property collective investment undertakings as indicated in Section 5 of the present chapter:

1 The subscribers of shares in real-property investment partnerships prior to their subscription or purchase, pursuant to the provisions of Articles L. 214-59 et seq;

2 The partners in real-property investment partnerships, not later than twelve months after publication of Order No. 2005-1278 of 13 October 2005 determining the law and jurisdiction applicable to real-property collective investment undertakings and the arrangements for converting real-property investment partnerships into real-property collective investment undertakings.

The said information shall emphasise the obligation imposed on real-property investment partnerships to convene a General Meeting as provided for in Article L. 214-84-2 to enable the partners to vote on the option to convert.

The information shall be sincere, complete and clear and drafted in terms which make it readily accessible and comprehensible and thus provide the subscribers of shares or the partners with the essential and necessary details they require to make their decisions in full knowledge of the facts.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

SECTION IV
Forestry-Linked Savings Companies

Articles L214-85 to L214-88

Article L214-85

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-602 of 9 July 2001 Article 9 V 1, 2, Official Journal of 11 July 2001)

The primary purpose of a forestry-linked savings company is the acquisition and management of forestry assets; on the one hand, at least 60% of their assets consist of membership shares in forestry groups or companies whose sole purpose is the holding of woods and forests and, on the other hand, liquid assets or other cash equivalents.

The woods and forests held by these companies must be managed in accordance with a simple approved management plan.

The units of forestry-linked savings companies are treated in the same way, for tax purposes, as membership

shares held in a forestry group, with the exception of Article 885 H of the General Tax Code.

Article L214-86
(inserted by Order No. 2001-602 of 9 July 2001 Article 9 V 1 and 3, Official Journal of 11 July 2001)
The portion of a forestry-linked savings company's assets which must consist of woods and forests is set at 51% if those companies devote, as indicated in a Conseil d'Etat decree, a portion of their assets to upgrading or to guaranteeing loans granted by credit institutions approved by the administrative authorities for financing investment, development or exploitation of woods and forests.

Article L214-87
(inserted by Order No. 2001-602 of 9 July 2001 Article 9 V 1 and 3, Official Journal of 11 July 2001)
Forestry-linked savings companies and their management companies are subject to the same rules as real-property investment partnerships and their management companies.
However:
- the time limit referred to in Article L. 214-54 is increased to two years;
- the authorisation of the management company referred to in Article L. 214-67 is subject to a prior opinion from the National Professional Centre for Forestry Property;
- contrary to the first paragraph of Article L. 214-72, a Conseil d'Etat decree determines the exchanges, disposals or charges which may be effected on the forestry assets of forestry-linked savings companies that constitute normal management transactions and are not subject to authorisation from the ordinary general meeting of members;
- contrary to the first paragraph of Article L. 214-80, a forestry savings company may also merge with a forestry group which manages forestry assets that are subject to simple approved management plans; in which case the merger is subject to authorisation by the Stock Exchange Commission.
Moreover, a general meeting of members approves the simple approved management plans for the woods and forests held by the company.
NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:
1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;
2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L214-88
(inserted by Order No. 2001-602 of 9 July 2001 Article 9 V 1 and 3, Official Journal of 11 July 2001)
A Conseil d'Etat decree determines the implementing provisions for sections 1, 2, 3 and 4 of the present Chapter.

SECTION V
Real-Property Collective Investment Undertakings — Articles L214-89 to L214-146

Subsection 1
Common Provisions — Articles L214-89 to L214-119

Paragraph 1
Formation and rules of composition of the assets of a real-property collective investment undertaking — Articles L214-89 to L214-105

Article L214-89
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)
Real-property collective investment undertakings either take the form of investment trusts investing primarily in real property, or that of property bond funds.
NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-90
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)
The object of a real-property collective investment undertaking is investment in buildings, including buildings in future state of completion, which they rent out or have built solely for the purpose of renting them out and which they hold directly or indirectly, all activities necessary for their use or resale, the carrying out of works of all kinds in those buildings, including works relating to their construction, renovation and restoration in order to rent them out and, subsidiarily, the management of financial instruments and deposits. The real-property assets may not be acquired solely in order to resell them.
Real-property collective investment undertakings may have different categories of units or shares as provided for respectively in the property bond fund's rules or the articles of association of the investment trust investing primarily in real property, as provided for in the General Regulations of the Financial Markets Authority.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-91

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - The creation, conversion, merger, demerger or liquidation of a real-property collective investment undertaking is subject to approval from the Financial Markets Authority. The application for approval, the content of which is determined by the General Regulations of the Financial Markets Authority, describes, inter alia, the investment policy that the real-property collective investment undertaking intends to pursue, as well as its sources of financing, including borrowings.

II. - Real-property collective investment undertakings, the custodian referred to in Article L. 214-117 and the management company referred to in Article L. 214-119 act solely for the benefit of the subscribers. They must provide adequate guarantees in regard to their organisation, their technical and financial resources, and the respectability and experience of their managers. They must take the necessary steps to ensure the security of the transactions.

The entities and persons referred to in Articles L. 214-112, L. 214-117, L. 214-119 and L. 214-120 must act independently of each other.

III. - The Financial Markets Authority stipulates how and when real-property collective investment undertakings must provide information to their subscribers, and likewise the position in relation to advertising, and audiovisual advertising in particular, and canvassing. The General Regulations of the Financial Markets Authority also stipulate the content of the information document that those undertakings must provide.

IV. - The Financial Markets Authority may withdraw its approval from any real-property collective investment undertaking.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-92

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - Subject to the conditions and limits stipulated in a Conseil d'Etat decree, the assets of a real-property collective investment undertaking shall consist solely of:

a) Properties built or bought with a view to letting them and benefiting from rights in rem relating thereto as provided for in the Conseil d'Etat decree referred to the preceding paragraph;

b) Shares in partnerships which are not admitted to trading on a market referred to in Articles L. 421-3, L. 422-1 and L. 423-1 and which meet the following conditions:

1 The partners are responsible for the liabilities beyond their contributions, barring any cases in which, pursuant to Article L. 214-55 or equivalent provisions of a foreign legal system, they are only responsible for the liabilities within the limit of their contributions;

2 The assets consist mainly of properties built or bought with a view to letting them and benefiting from rights in rem relating thereto, as well as lessors' rights under leases on properties to let, or direct or indirect holdings in companies whose asset structure meets the conditions of this sub-point b;

3 The other assets are current account advances within the meaning of Article L. 214-98, receivables deriving from their primary activity, liquid assets referred to in i) or liquid financial instruments referred to in h;

4 The financial instruments they issue are not admitted to trading on a market referred to in Articles L. 421-3, L. 422-1 and L. 423-1;

c) Shares in partnerships other than those referred to in b, shares in companies other than partnerships which are not admitted to trading on a market referred to in Articles L. 421-3, L. 422-1 and L. 423-1. Such companies must meet the following conditions:

1 The liability of the partners or shareholders is limited to the amount of their contributions;

2 The assets consist mainly of properties built or bought with a view to letting them and benefiting from rights in rem relating thereto, as well as lessors' rights under leases on properties to let or direct or indirect holdings in companies whose asset structure meets the conditions of this sub-point c;

3 The financial instruments they issue are not admitted to trading on a market referred to in Articles L. 421-3, L. 422-1 and L. 423-1;

d) Shares traded on a market referred to in Articles L. 421-3, L. 422-1 and L. 423-1 which are issued by a company whose assets consist mainly of properties built or bought with a view to letting them and benefiting from rights in rem relating thereto, as well as lessors' rights under leases on properties to let or direct or indirect holdings in companies whose assets meet the same conditions;

e) Shares or units of real-property collective investment undertakings and shares, units or rights held in foreign-law entities having an equivalent purpose, regardless of their legal form;

f) Financial instruments referred to in I of Article L. 211-1 admitted to trading on a market referred to in Articles L. 421-3, L. 422-1 and L. 423-1 as well as the financial instruments enumerated in II of Article L. 211-1, with the exception of those indicated in 4;

g) The shares or units of undertakings for collective investment in transferable securities, with the exception of those

referred to in subsections 9 to 14 of Section 1 of Chapter IV of Part I of Book II, which are approved by the Financial Markets Authority or authorised for distribution in France;

h) Deposits and liquid financial instruments as described in a Conseil d'Etat decree;

i) Liquid assets described in a Conseil d'Etat decree;

j) Current account advances granted pursuant to Article L. 214-98.

A Conseil d'Etat decree lays down the rules for risk-spreading and ceilings, particularly in regard to construction, that apply to the real-property collective investment undertaking.

II. - A real-property collective investment undertaking and the companies referred to in I b) may not hold shares, units, financial rights or voting rights in an entity, regardless of its legal form, whose partners or members are indefinitely and jointly and severally liable for the entity's debts.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-93

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Subject to limits and conditions determined in a Conseil d'Etat decree, the assets of an undertaking for collective investment in real property consist of:

1 Property assets: at least 60%. In the case of an investment trust investing primarily in real property, these real-property assets are those referred to in I a) to I d) of Article L. 214-92, with the assets referred to in I a) to I c) of the aforementioned Article representing at least 51% of the assets. In the case of property bond funds, these assets are those referred to in I a) and I b) of Article L. 214-92;

2 Assets referred to in I h) and I i) of Article L. 214-92: at least 10%. These assets must be free of any surety or rights in favour of third parties.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-94

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Subject to limits and conditions determined in a Conseil d'Etat decree, a real-property collective investment undertaking may enter into contracts to create financial futures referred to in II of Article L. 211-1, with the exception of those indicated in 4.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-95

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

A real-property collective investment undertaking may undertake borrowings of up to 50% of the value of the real-property assets referred to in I a) to I c) of Article L. 214-92.

To determine this limit, all borrowings and debts of the real-property collective investment undertaking and the companies referred to in I b) and I c) of Article L. 214-92 t are taken into account in proportion to the participating percentage directly or indirectly held in those companies by the undertaking.

The obligations relating to the provision of information to the shareholders and unitholders concerning the circumstances in which the real-property collective investment undertaking may incur debt are determined by the General Regulations of the Financial Markets Authority.

The present article's implementing provisions governing the capacity and nature of the borrowings are determined in a Conseil d'Etat decree.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-96

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

A real-property collective investment undertaking may undertake cash borrowings of up to 10% of the value of its assets, excluding those referred to in Article L. 214-95.

The implementing provisions for the limit referred to in the previous paragraph are determined in a Conseil d'Etat decree.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-97

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Subject to limits and conditions determined in a Conseil d'Etat decree, a real-property collective investment undertaking may grant guarantees against its assets which are necessary to conclude contracts associated with its business, and in particular those relating to the establishment of borrowings referred to in Articles L. 214-95 and L. 214-96 and those referred to in Article L. 214-94.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-98

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Subject to limits and conditions determined in a Conseil d'Etat decree, a real-property collective investment undertaking may grant current account advances to the companies referred to in I b) and I c) of Article L. 214-92 in which it directly or indirectly holds at least 5% of the share capital.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-99

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The rules for risk-spreading and ceilings, and the quotas referred to in Articles L. 214-92 and L. 214-93 respectively, must be complied with within three years of the date on which the real-property collective investment undertaking's approval was granted.

A Conseil d'Etat decree determines the thresholds, circumstances and terms of any departure from the quotas referred to in Article L. 214-93 which may be permitted for a limited period in exceptional cases.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-100

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Under terms and conditions laid down in the General Regulations of the Financial Markets Authority, any unitholder or shareholder who exceeds the threshold of 10% of the units or shares of the real-property collective investment undertaking must inform the person indicated in the information document referred to in III of Article L. 214-91 thereof.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-101

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

When a unitholder or shareholder who holds more than 20% but less than 99% of the units or shares of a real-property collective investment undertaking requests redemption of units or shares, such redemption may be temporarily suspended as provided for in the General Regulations of the Financial Markets Authority if it exceeds a percentage of the real-property collective investment undertaking's total units or shares determined in those regulations.

For calculation of the portions referred to in the previous paragraph, units or shares held by entities which control the person requesting the redemption, or which are controlled in the same way by that person within the meaning of Article L. 233-16 of the Commercial Code, are taken into account, as are the units or shares of the entities which are controlled in the same way by the entity which controls that person.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-102

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Creditors whose title derives from any transaction relating to the assets of a real-property collective investment undertaking may claim against those assets only and have no claim against the assets referred to in 2 of Article L. 214-93.

The custodian's creditors cannot sue for payment of their debts against the assets of a real-property collective investment undertaking held by the custodian.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the

Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-103
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The minimum amount of the real-property collective investment undertaking's net assets, as specified in the General Regulations of the Financial Markets Authority, is determined by decree.

If this requirement is not met within three years of the date of issuance of the real-property collective investment undertaking's approval, the undertaking is dissolved and the unitholders or shareholders are reimbursed in proportion to their holdings in the fund or the company as provided for in the General Regulations of the Financial Markets Authority.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-104
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The General Regulations of the Financial Markets Authority determine the terms of issuance, subscription, assignment and redemption of the units or shares issued by real-property collective investment undertakings.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-105
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Real-property collective investment undertakings are required to take out an insurance policy to cover the civil liability associated with the properties they own.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Paragraph 2
Accounting and Financial Provisions — Articles L214-106 to L214-110

Article L214-106
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The rules and regulations of a property bond fund or the articles of association of an investment trust investing primarily in real property determine their accounting periods, which shall not exceed twelve months. The first accounting period may nevertheless be longer, but shall not exceed eighteen months.

Within six weeks of the close of each half-year of the accounting period, the investment trust investing primarily in real property, or its management company, shall draw up an inventory of the real-property collective investment undertaking's assets, under the custodian's supervision.

The investment trust investing primarily in real property, or its management company, shall draw up the real-property collective investment undertaking's annual accounts as well as a written report on the real-property collective investment undertaking's management which, as specified in a Conseil d'Etat decree, shall detail, inter alia, the real-property collective investment undertaking's borrowings and liquidity. The said report shall be sent to the shareholders or unitholders as stipulated in the General Regulations of the Financial Markets Authority.

Notwithstanding the provisions of the first paragraph of Article L. 123-22 of the Commercial Code, the accounts of a real-property collective investment undertaking may be kept in any monetary unit, as determined by decree.

The documents referred to in the present article are made available to the auditor as determined in a Conseil d'Etat decree.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-107
(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The annual net profit or loss of a real-property collective investment undertaking is equal to the sum of:

1 The income relating to the property assets referred to in I a) to I c) of Article L. 214-92 for an investment trust investing primarily in real property and in a) and b) of I of that same article for a property bond fund, less the amount of the fees and charges applied thereto;

2 The income and fees deriving from management of the other assets, less the amount of the fees and charges applied thereto;

3 Any other income, less the management fees and other fees and charges, which is not directly linked to the assets referred to in 1 and 2.

The allocation rules for the fees and charges referred to in 1 to 3 are determined by decree.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-108

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The distributable sums referred to in Articles L. 214-128 and L. 214-140 are paid within five months of the close of the accounting period.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-109

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

At intervals specified in the General Regulations of the Financial Markets Authority, investment trusts investing primarily in real property and property-bond management companies shall draw up an information document for the information of the shareholders and unitholders respectively.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-110

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - The auditor certifies the real-property collective investment undertaking's annual accounts. As provided for in a Conseil d'Etat decree, he reports, as applicable, to either the General Meeting of the investment trust investing primarily in real property or the property bond fund's management company on any mergers, contributions in kind, interim dividends, divestment, or dissolution or liquidation of the real-property collective investment undertaking.

As stipulated in a Conseil d'Etat decree, he certifies the accuracy of the regular information referred to in Article L. 214-109 before it is published or distributed.

II. - The provisions of Article L. 214-14 apply likewise to the auditor of the real-property collective investment undertaking.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Paragraph 3
Valuation of Real-Property Assets — Articles L214-111 to L214-116

Article L214-111

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

As determined in the General Regulations of the Financial Markets Authority, properties and rights in rem held directly or indirectly by a real-property collective investment undertaking and by the companies referred to in I b) and I c) of Article L. 214-92 are valued by two property valuers each acting independently of the other. They jointly prepare a written summary report on their mission, under their own responsibility.

An investment trust investing primarily in real property, or its management company, takes all measures necessary to enable the valuers to complete their assignment.

The General Regulations of the Financial Markets Authority determine the valuers' duties, including division of the tasks between them, the valuation rules and the format of the report.

The said report is sent to the investment trust investing primarily in real property, the management company, the custodian and the auditor, and also to any unitholder or shareholder of the real-property collective investment undertaking who so requests in the manner determined in a Conseil d'Etat decree.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-112

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Property valuers must be experienced and competent and have an organisation geared to property asset

evaluation.

Before their appointment, the property valuers shall inform the investment trust investing primarily in real property, or its management company, as to whether they hold a professional liability insurance policy.

This information shall be included in the management report drawn up by the investment trust investing primarily in real property or by its management company, which shall indicate, where relevant, the amount of cover provided under the professional liability insurance policy.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-113

(Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

The property valuer, any member of a management structure and any person who, in whatever capacity, participates in the management or administration of a property valuation firm or is employed by one, is bound by professional secrecy under the terms and subject to the penalties laid down in articles 226-13 and 226-14 of the Penal Code.

Within the framework of their assignment, property valuers are released from professional secrecy in regard to the real-property collective investment undertaking's auditor, the Financial Markets Authority, the Insurance and Mutual Societies Supervisory Authority, the Banking Commission and the tax authorities.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-114

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Under the terms laid down by the General Regulations of the Financial Markets Authority, each property valuer is appointed by an investment trust investing primarily in real property, or its management company, for a four-year term commencing upon approval from the Financial Markets Authority.

An investment trust investing primarily in real property, or its management company, may only terminate a property valuer's assignment before expiry of the term indicated in the first paragraph with the agreement of the Financial Markets Authority.

A real-property collective investment undertaking's appointed property valuers are identified in the information document referred to in the General Regulations of the Financial Markets Authority.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-115

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The property valuers are liable towards the investment trust investing primarily in real property or the property bond fund's management company, as well as the custodian, for the prejudicial consequences of any breach or negligence committed by them in the performance of their duties.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-116

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Investment trusts investing primarily in real property and fund management companies are required to provide the property valuers they have appointed with all the documents, information and means of investigation they require to perform their duties.

If the property valuers are unable to carry out all or part of their assignment through not having been given the items or access to the means of investigation referred to in the first paragraph despite having requested them, they shall mention this in their report. The said report shall detail the checks they have carried out. They shall also inform the Financial Markets Authority of the situation pursuant to the General Regulations of the Financial Markets Authority.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Paragraph 4

Custodians of Real-Property Collective Investment Undertakings — Articles L214-117 to L214-118

Article L214-117

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The custodian is separate from the real-property collective investment undertaking, the management company and the property valuer. It has the status of a credit institution or investment firm approved to provide the services referred to in 1 of Article L. 321-2. The custodian is appointed by the real-property collective investment undertaking and is named in the information document referred to in III of Article L. 214-91.

The custodian's registered office must be in France.

Its liability is not affected by the fact of it entrusting some or all of the assets in its custody to a third party.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-118

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - The custodian is responsible for:

1 The safe custody and verification of the real-property collective investment undertaking's inventory of assets, with the exception of the assets referred to in I a) to I c) of Article L. 214-92;

2 Verifying the real-property collective investment undertaking's inventory of assets referred to in I a) to I c) of Article L. 214-92;

3 Ensuring that the decisions of the investment trust investing primarily in real property and of the management company are legitimate.

The scope and terms of fulfilment of the custodian's duties are set out in the General Regulations of the Financial Markets Authority.

II. - When applicable, the custodian also ensures, on behalf of all the unitholders, that tax is paid on any real-property capital gains made directly or indirectly by the property bond fund, as stipulated in the General Tax Code.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Paragraph 5

Management Companies of Real-Property Collective Investment Undertakings — Article L214-119

Article L214-119

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

A real-property collective investment undertaking is managed by a portfolio management company as described in Article L. 532-9 which is designated in the real-property collective investment undertaking's articles of association or rules and regulations.

The said management company has a specialist division dedicated to the management of real-property collective investment undertakings and real-property investment partnerships and, subsidiarily, to provide property investment advice.

It may also exercise executive powers in the companies in which the real-property collective investment undertaking which it manages holds equity interests as described in I b) and I c) of Article L. 214-92.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Subsection 2

Specific Rules applicable to Investment Trusts Investing Primarily in Real Property — Articles L214-120 to L214-142

Article L214-120

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

An investment trust investing primarily in real property is an open-end investment company subject to the rules of the present subsection.

Without prejudice to the provisions of Articles L. 214-101 and L. 214-126 and as determined in the General Regulations of the Financial Markets Authority, the shares of an investment trust investing primarily in real property are issued and redeemed, at the shareholders' request, at their net asset value plus or minus the fees or commissions.

The amount of the capital is equal at all times to the value of the investment trust investing primarily in real property's net assets after deduction of the distributable sums indicated in 1 of I of Article L. 214-128.

The initial capital of an investment trust investing primarily in real property cannot be below an amount determined by decree.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-121

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Contrary to the first paragraph of Article L. 225-51-1, the first paragraph of Article L. 225-53 and the third paragraph of Article L. 225-59 of the Commercial Code, respectively, the duties of general manager, acting general manager, chairman of the Executive Board or sole general manager, as applicable, are performed by the management company.

The management company designates a permanent representative subject to the same conditions and obligations and assuming the same liability that he would if he occupied one of the posts referred to in the first paragraph in his own right, without prejudice to the joint and several liability of the company he represents.

When it withdraws its representative's remit, the management company is required to appoint a replacement at the same time.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-122

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

An investment trust investing primarily in real property, and its management company, are each liable, individually or jointly and severally, as applicable, towards third parties or the shareholders, for any offence against the laws or regulations applicable to investment trusts investing primarily in real property, any violation of the company's articles of association and any wrongful act on their part.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-123

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The provisions of 1 and 3 to 8 of the second paragraph of 9, and 10 and 11, of Article L. 214-17, apply likewise to investment trusts investing primarily in real property.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-124

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

An investment trust investing primarily in real property may be formed by means of cash contributions, contributions in kind of property assets referred to in Article L. 214-92, a merger or a demerger. It may also be formed by a merger, demerger or conversion of real-property investment partnerships.

Contributions in kind may be made to an investment trust investing primarily in real property subsequent to its formation, in the event, for example, of a merger with a property investment company or another investment trust investing primarily in real property, or if a property investment company transfers a portion of its assets to it by way of demerger.

The paying up of contributions and, once the company is formed, the subscription of shares cannot be effected by offsetting against claims held against the company which are due and payable.

Any contribution in kind is valued by the auditor under his responsibility in the light of an estimate made by two property valuers who meet the conditions stipulated in Article L. 414-112 and are designated by the management company. The auditor's report is appended to the articles of association and filed with the court registry. The articles of association contain the valuation of the contributions in kind made upon formation of the investment trust investing primarily in real property. Contributions in kind made during the life of the company are made known to the shareholders as prescribed in the General Regulations of the Financial Markets Authority. A Conseil d'Etat decree determines the present paragraph's implementing provisions.

The General Regulations of the Financial Markets Authority determine, where applicable, and notwithstanding the second paragraph of Article L. 225-128 of the Commercial Code, the conditions and limits applicable to the contributions made upon formation and during the life of the company.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-125

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Articles L. 224-1, L. 224-2, L. 225-3 to L. 225-16, L. 225-258 to L. 225-270, L. 231-1 to L. 231-8, L. 242-31 and L. 247-10 of the Commercial Code are not applicable to investment trusts investing primarily in real property.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-126

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Redemption of shares by the company may be temporarily suspended by the Board of Directors or the Executive Board in the event of force majeure if the general interest of the shareholders so warrants, pursuant to the General Regulations of the Financial Markets Authority.

The General Regulations of the Financial Markets Authority determine the cases and circumstances in which the investment trust investing primarily in real property's articles of association make provision, when appropriate, for the issuance of shares to be temporarily suspended.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-127

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Thirty days at least before the General Meeting called to approve them, the investment trust investing primarily in real property is required to publish its profit and loss account and its balance sheet. It is exempted from publishing them again after the General Meeting, unless that meeting amended them.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-128

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - The sums that are distributable by an investment trust investing primarily in real property for any given accounting period consist of:

1 The distributable profit from the income achieved by the company, which is equal to the net profit referred to in Article L. 214-107 plus the retained earnings and plus or minus the balance shown in the asset-liability adjustment account specified by decree;

2 The capital gains realised on assignment of assets referred to in I a) of Article L. 214-92, the partnership shares referred to in b) or c) of I of the said article which are not subject to corporation tax or any equivalent tax, and the partnership shares or shares referred to in I c) of that same article when the company's real-property business qualifies for a corporation-tax exemption scheme. The qualifying capital gains are those realised during the accounting period, net of expenses and less any capital losses net of expenses incurred on those same assets during the same accounting period, plus the net capital gains of the same kind realised in earlier accounting periods in respect of which no distribution was made plus or minus the balance in the asset-liability adjustment accounts specified by decree.

II. - The company makes a distribution within the limits indicated in I:

1 Up to 85%, at least, the fraction of the distributable profit from the income earned on the assets referred to in I a) of Article L. 214-92 during the accounting period in which it was realised. To determine the amount to be distributed, the net income is reduced by a fixed amount equal to 1.5% of the cost price of the properties referred to in I a) of Article L. 214-92 directly held by the company;

2 Up to 50%, at least, the capital gains referred to in 2 of I realised during the accounting period or the previous accounting period. To determine the amount to be distributed, the net capital gains realised on the properties referred to in I a) of Article L. 214-92 directly held by the company are increased by a fixed amount applied pursuant to 1 from the time of their acquisition;

3 The entirety of the fraction of the distributable profit relating to the income distributed by the companies referred to in I c) of Article L. 214-92 when the company's real-property business qualifies for a corporation-tax exemption scheme for the accounting period in which it was realised.

III. - For application of 1 and 2 of II, the income and capital gains realised by a company referred to in b) or c) of I of Article L. 214-92 which is not liable for corporation tax or an equivalent tax are, consistent with its entitlement, deemed to be realised by the investment trust investing primarily in real property for the accounting period which follows that in which the company referred to in b) or c) of I of Article L. 214-92 realised the income or the capital gains.

Income and capital gains relating to real-property assets located outside France are not taken into account when the amount to be distributed is determined if the tax treaties entered into with France to avoid double income taxation provide for such income and capital gains to be taxed at the place where the assets are located.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month

following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-129

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Notwithstanding the provisions of the Commercial Code, the terms of liquidation and the arrangements for distribution of the assets are set out in the company's articles of association. The management company assumes the liquidator's duties, under the custodian's supervision; failing this, the court appoints an approved portfolio management company as liquidator at the request of any shareholder.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-130

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Without prejudice to the provisions of Article L. 214-101 and the second and third paragraphs of Article L. 214-136, a property bond fund, which does not have legal personality, is a co-ownership composed of property assets, financial instruments and other assets as indicated in Article L. 214-92, the units of which are issued and redeemed, at the unitholders' request, at their net asset value plus or minus the fees or commissions, as determined in the General Regulations of the Financial Markets Authority.

The provisions of the Civil Code relating to jointly held property do not apply to property bond funds, nor do those of Articles 1871 to 1873 of that same code relating to undeclared partnerships.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-131

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

In all cases in which provisions relating to real property or companies and financial instruments require indication of the surname, forenames and domicile of the owner of the assets or the instruments, and for all transactions carried out on behalf of co-owners, the name of the property bond fund or, where applicable, a compartment of the fund, may be validly substituted for that of all the co-owners.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-132

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

As provided for in the General Regulations of the Financial Markets Authority, a property bond fund is formed by a portfolio management company responsible for its management.

The management company draws up the rules of the fund.

The said rules make provision for the establishment of a supervisory board composed solely of representatives of the unitholders. This board, composed of five members at least and nine members at most, oversees the fund's management. It cannot interfere in that management. The General Regulations of the Financial Markets Authority determine how it shall perform its duties, the appointment criteria for its members and the resources made available to them.

Whenever it considers it necessary, and at least once each year, the supervisory board draws up a report on its activities. The General Regulations of the Financial Markets Authority determine the circumstances in which the said report is made known to the unitholders.

The previous paragraph does not apply if the information document referred to in III of Article L. 214-91 stipulates that the property bond fund is restricted to twenty or more unitholders or to an investor profile described in the said General Regulations.

The subscription or acquisition of units in a property bond fund entails acceptance of its rules.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-133

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The property bond fund is represented in regard to third parties by the company responsible for its management. That company may bring legal proceedings to defend or assert the unitholders' rights or interests.

The property bond fund's central administration is located in France.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-134

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The management company is liable towards third parties or the unitholders for any violation of the laws or regulations applicable to property bond funds, any breach of the fund's rules and any wrongful act.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-135

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

A property bond fund may be formed by means of cash contributions, contributions in kind of property assets referred to in Article L. 214-92, a merger or a demerger. It may also be formed by a merger, demerger or conversion of real-property investment partnerships.

Contributions in kind may be made to a property bond fund subsequent to its formation, in the event, for example, of a merger with a property investment company or another property bond fund, or if a property investment company transfers a portion of its assets to it by way of demerger.

The paying up of contributions and, once the company is formed, the subscription of units cannot be effected by offsetting against claims held against the company which are due and payable.

The General Regulations of the Financial Markets Authority determine the conditions and limits of contributions to the fund.

The creation of property bond funds through a merger or demerger of real-property investment partnerships, and likewise the conversion of real-property investment partnerships into property bond funds, entails the dissolution of the companies concerned and the transfer of all their assets to the fund without their liquidation.

Any contribution in kind is valued by the auditor under his responsibility in the light of an estimate made by two property valuers who meet the conditions stipulated in Article L. 214-112 and are designated by the management company. The rules contain the valuation of any contribution in kind made upon creation of the property bond fund. The auditor's report is appended to the rules and is made available to the unitholders. Contributions in kind made after the creation of the property bond fund are made known to the unitholders as prescribed in the General Regulations of the Financial Markets Authority.

A Conseil d'Etat decree determines the present paragraph's implementing provisions.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-136

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The units are fully paid-up upon formation.

Redemption of units by a property bond fund may be temporarily suspended by the management company in the event of force majeure if the general interest of the unitholders so warrants, pursuant to the General Regulations of the Financial Markets Authority.

The General Regulations of the Financial Markets Authority determine the cases and circumstances in which the rules of the fund make provision, when appropriate, for the issuance of units to be temporarily suspended.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-137

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The provisions of Article L. 214-29 apply to property bond funds.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-138

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - The management company is required to make the declarations indicated in Article L. 233-7 of the Commercial Code for all the shares held by the real-property collective investment undertakings it manages.

II. - The provisions of Articles L. 233-14 and L. 247-2 of the Commercial Code are applicable to the management

company.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-139

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The companies referred to in I b) of Article L. 214-92 in which a property bond fund has a direct or indirect equity interest come under Article 8 of the General Tax Code, are not subject to corporation tax or an equivalent tax under the law or as an option, and may not directly or indirectly hold rights as lessors in respect of leasing contracts.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-140

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - The sums distributable by a property bond fund for any given accounting period consist of:

1 The distributable profit from the income achieved by the fund, which is equal to the net profit referred to in Article L. 214-107 plus the retained earnings and plus or minus the balance shown in the asset-liability adjustment account specified by decree;

2 The capital gains realised on assignment of assets referred to in I a) and I b) of Article L. 214-92 during the accounting period, net of expenses and plus or minus the balance in the asset-liability adjustment accounts specified by decree.

3 The capital gains realised on assignment of assets, excluding those referred to in I a) and I b) of Article L. 214-92 realised during the accounting period, net of expenses and less any capital losses net of expenses incurred on those same assets during the same accounting period, plus the capital gains of the same kind realised in earlier accounting periods in respect of which no distribution was made and, if applicable, plus or minus the balance in the asset-liability adjustment accounts specified by decree.

For application of I, the income and capital gains realised by a company referred to in I b) of Article L. 214-92 are deemed to be realised by the property bond fund in proportion to its holdings in that company.

II. - The property bond fund distributes:

1 Up to 85%, at least, the fraction of the distributable profit within the meaning of 1 of I in respect of the following assets:

a) Property assets referred to in I a) of Article L. 214-92 which the fund holds directly or through a company referred to in Article L. 214-139 in respect of the year in which they were realised. To determine the amount to be distributed, the net income is reduced by a fixed amount equal to 1.5% of the cost price of the properties directly held by the fund;

b) Other assets which the fund holds directly or through a company referred to in Article L. 214-139 in respect of the year in which they were realised.

2 Up to 85%, at least, the distributable capital gains referred to in 2 of I reduced, where applicable, by the fixed amount provided for I of Article 150 VC of the General Tax Code, realised by the fund or through a company referred to in Article L. 214-139:

a) Upon assignment of the real-property assets referred to in I a) of Article L. 214-92, in respect of the year of assignment;

b) Upon assignment of the partnership shares of companies referred to in I b) of Article L. 214-92, in respect of the year of assignment.

3 Up to 85%, at least, the capital gains realised directly by the fund and through a company referred to in Article L. 214-139, upon assignment of the assets, excluding those referred to in 2, in respect of the year in which they were realised.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-141

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Notwithstanding the provisions of Article L. 214-108, payment of the distributable sums in respect of the capital gains referred to in 2 of II of Article L. 214-140 must take place before the last day of the sixth month following assignment of the aforementioned assets.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-142

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The unitholders or their assigns cannot initiate the division of the property bond fund.

The unitholders are liable for the co-ownership's debts only in proportion to the fund's assets and their own share thereof.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Subsection 3
Specific Rules applicable to Property Bond Funds — Article L214-143

Article L214-143

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

The conditions of liquidation and the arrangements for dividing up the assets are determined by the property bond fund's rules. The management company assumes the liquidator's duties under the custodian's supervision. Failing which, a liquidator is appointed by the court at the request of any unitholder.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Subsection 4
Real-Property Collective Investment Undertakings with Simplified Operating Rules — Articles L214-144 to L214-145

Article L214-144

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

A real-property collective investment undertaking with simplified operating rules may be created.

The units or shares of a real-property collective investment undertaking with simplified operating rules may be subscribed and bought only by the qualified investors referred to in Article L. 411-2 and by foreign investors belonging to an equivalent category under the law of the country in which their registered office is located.

The General Regulations of the Financial Markets Authority determine the circumstances in which the units or shares of such entities may be made available to other investors based, inter alia, on their status and the level of risk that the entity presents.

The custodian or the person designated to perform the custodial function in the undertaking's rules or articles of association shall ensure that the subscriber or buyer is an investor as described in the previous paragraph. He shall also ensure that the subscriber or buyer has effectively declared that he was informed that the said undertaking was governed by the provisions of the present subsection.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-145

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

Subject to limits and conditions determined in a Conseil d'Etat decree, a real-property collective investment undertaking with simplified operating rules may depart from the limits set in Articles L. 214-93 to L. 214-97.

The units or shares of a real-property collective investment undertaking with simplified operating rules may give rise to different rights over the undertaking's net assets or income and terms of issuance, assignment or redemption which depart from Article L. 214-126 and the second and third paragraphs of Article L. 214-136, as provided for in the investment trust investing primarily in real property's articles of association or the property bond fund's rules.

Notwithstanding the provisions of 1 of Article L. 214-17 to which are Article L. 214-123 refers and the first paragraph of Article L. 214-136, respectively, the articles of association of an investment trust investing primarily in real property with simplified operating rules or the rules and regulations of a property bond fund may provide for staggered paying up of the units or shares subscribed. Such securities are registered.

When the units or shares are not fully paid up, the subscriber and the successive assignees are jointly and severally liable for the unpaid amount. A unitholder or shareholder who fails to pay the sums remaining due in respect of his units or shares by the dates specified by the management company or the investment trust investing primarily in real property is sent a notice to pay. If the said notice to pay does not produce its effects within one month, the management company or the investment trust investing primarily in real property may sell those units or shares without any authorisation from the court. However, a subscriber or assignee who has sold his units or shares ceases to be liable for the payments not yet called by the management company or the investment trust investing primarily in real property when two years have elapsed since the book transfer of the units or shares sold.

The property bond fund's rules or the investment trust investing primarily in real property's articles of association may authorise redemption of the units or shares of the collective investment undertaking with simplified operating rules only after expiry of a certain period which shall not exceed three years with effect from the undertaking's formation.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month

following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L214-146
(Order No. 2005-1278 of 13 October 2005 Art. 2 Official Journal of 14 October 2005)

I. - A real-property collective investment undertaking may have two or more compartments if its articles of association or its rules so provide. Each compartment gives rise to the issue of one or more categories of units or shares which represent the assets of the real-property collective investment undertaking which are allocated to it. Notwithstanding Article 2285 of the Civil Code and unless otherwise stipulated in the real-property collective investment undertaking's articles of association, the assets of a given compartment may only be used to meet that compartment's debts, commitments and obligations and only benefit from that compartment's receivables.

When compartments are created in a real-property collective investment undertaking they are all individually subject to the provisions of the present code which govern that undertaking.

The Financial Markets Authority stipulates the conditions each compartment formed must meet in order to obtain its approval, as well as the means of determining the cash-in value of each category of units or shares on the basis of the net asset value allocated to the relevant compartment.

II. - Separate accounts are maintained for each compartment in the real-property collective investment undertaking's books.

II. - The Financial Markets Authority approves any conversion, merger, demerger or liquidation of a compartment, under conditions which it determines.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L221-1
(Order No. 2005-429 of 6 May 2005 Art. 29 Official Journal of 7 May 2005)

Sums paid into an initial passbook account with the Caisse nationale d'épargne or a Caisse d'épargne et de prévoyance, known as a livret A account, or a special passbook account with the Crédit mutuel, are subject to a ceiling determined by the regulations.

Sums paid-in in excess of the ceiling may be deposited in one or more additional savings accounts. Savings bank accounts are non-transferable.

An individual may only hold one initial passbook account with a savings bank or one special passbook account with the Crédit mutuel.

Article L221-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The savings banks may repay the funds deposited on demand, but repayments are not officially due until two weeks have elapsed.

Additional time limits are determined by decree for transactions which necessitate recourse to an office or institution located outside Continental France.

In the event of force majeure, a Conseil d'Etat decree issued on the basis of a report from the Minister for the Economy and the Minister for the Post Office may limit repayments per two-week period to 2% of the maximum amount authorised for deposits in first passbook accounts. Deposits made subsequent to the decree are released from the saving clause.

The said saving clause is not applicable to companies that provide assistance to the injured and which are registered charities. Special derogations may be granted by the Minister for the Economy for the savings accounts of companies which are useful to the national defence or which seek to combat social exclusion.

The provisions relating to repayment are drawn to the depositors' attention through a notice printed at the head of the passbook which is also displayed in the savings banks' premises.

Article L221-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any depositor may transfer his funds from one savings bank to another.

Article L221-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Minors are allowed to open savings accounts without involving their legal representative. They may also withdraw the sums indicated in the passbook accounts thus opened without such involvement, unless their legal representative objects thereto.

Article L221-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When a period of thirty years has elapsed with effect from both the last payment or repayment and any annuity or other transaction carried out at the request of the depositors, the sums that the savings banks hold for them lapse in relation to them and two fifths thereof are distributed among the savings banks, while the surplus is paid into the National Solidarity and Mutual Action Fund.

In the case of a payment made subject to a stipulation by the donor or the testator to the effect that the holder shall not dispose thereof until a given date, the thirty-year period shall commence with effect from that date.

Annuities purchased on behalf of the holder which are not withdrawn are consigned to the Caisse des dépôts et consignations. The annuity instalments are suspended from the day of consignment until such time as the depositor makes a claim.

Article L221-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

No attachment or notice of attachment, no transfer or assignment, and no service of process seeking to stop the remote payment of account credits made by the Caisse d'épargne et de prévoyance shall be effective if it takes place after the savings bank holding the account has given its authorisation to the branch responsible for payment and, for the National Savings Bank, after the department holding the account has given its authorisation to the Post Office responsible for payment.

Paragraph 2

Common Provisions applicable to the Caisses d'épargne et de prévoyance and the Caisse nationale d'épargne — Articles L221-2 to L221-6

Article L221-2

(Order No. 2005-429 of 6 May 2005 Art. 30 Official Journal of 7 May 2005)

The savings banks may repay the funds deposited on demand, but repayments are not officially due until two weeks have elapsed.

Additional time limits are determined by decree for transactions which necessitate recourse to an office or institution located outside Continental France.

In the event of force majeure, a Conseil d'Etat decree issued on the basis of a report from the Minister for the Economy and the Minister for the Post Office may limit repayments per two-week period to 2% of the maximum amount authorised for deposits in a livret A account. Deposits made subsequent to the decree are released from the saving clause.

The said saving clause is not applicable to companies that provide assistance to the injured and which are registered charities. Special derogations may be granted by the Minister for the Economy for the savings accounts of companies which are useful to national defence or which seek to combat social exclusion.

The provisions relating to repayment are drawn to the depositors' attention as provided for in the regulations.

Article L221-3

(Order No. 2005-429 of 6 May 2005 Art. 31 Official Journal of 7 May 2005)

Any depositor may transfer his funds from one Caisse d'épargne et de prévoyance to another, or from a Caisse d'épargne et de prévoyance to the Caisse nationale d'épargne, or from the Caisse nationale d'épargne to a Caisse d'épargne et de prévoyance.

Article L221-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Minors are allowed to open savings accounts without involving their legal representative. They may also withdraw

the sums indicated in the passbook accounts thus opened without such involvement, unless their legal representative objects thereto.

Article L221-5
(Order No. 2005-429 of 6 May 2005 Art. 32 Official Journal of 7 May 2005)
When a period of thirty years has elapsed with effect from both the last payment or repayment and any annuity purchase or other transaction carried out at the request of the depositors, the sums that the savings banks hold for them lapse in relation to them and two fifths thereof are distributed among the savings banks, while the surplus is paid into the National Solidarity and Mutual Action Fund.
In the case of a payment made subject to a stipulation by the donor or the testator to the effect that the holder shall not dispose thereof until a given date, the thirty-year period shall commence with effect from that date.

Article L221-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
No attachment or notice of attachment, no transfer or assignment, and no service of process seeking to stop the remote payment of account credits made by the Caisse d'épargne et de prévoyance shall be effective if it takes place after the savings bank holding the account has given its authorisation to the branch responsible for payment and, for the National Savings Bank, after the department holding the account has given its authorisation to the Post Office responsible for payment.

Subsection 2
Provisions Specific to the Caisses d'épargne et de prévoyance — Articles L221-7 to L221-8-1

Article L221-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Sums held by the Caisse d'épargne et de prévoyance in the depositors' account which are likely to lapse are the subject of individual notices and publication measures pursuant to the procedures laid down in a Conseil d'Etat decree. Once those measures are taken, those sums cannot be claimed by the State in the event of failure of issue or a declaration of absence. The same applies to sums in accounts exempted from the aforesaid measures.

Article L221-8
(Order No. 2005-429 of 6 May 2005 Art. 33 Official Journal of 7 May 2005)
The sums deposited in a Caisse d'épargne et de prévoyance livret A account are centralised at the Caisse des dépôts et consignations and benefit from a State guarantee.

Article L221-8-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 34 I Official Journal of 7 May 2005)
Transactions of the Caisses d'épargne et de prévoyance pertaining to savings products with a specific tax scheme or whose use is regulated or which benefit from a State guarantee are subject to on-site document inspections by the Finance Inspectorate.

Subsection 3
Provisions Specific to the National Savings Bank — Articles L221-9 to L221-10

Article L221-9
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Any depositor with a National Savings Bank passbook account may make payments and withdrawals at all French Post Offices which are duly organised as agencies of that savings bank.

Article L221-10
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)
The credit institution referred to in Article L. 518-26 opens a passbook account for any person through whom funds are paid for savings.
NB: Act 2005-516 2005-05-20 Art. 16 V:
1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.
2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Subsection 4
Provisions Specific to the Crédit mutuel — Articles L221-11 to L221-12

Article L221-11
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The Crédit mutuel banks governed by Articles L. 512-55 to L. 512-59 may open a special passbook account for their depositors under conditions specified by decree.

Article L221-12

(Order No. 2005-429 of 6 May 2005 Art. 35 Official Journal of 7 May 2005)

The sums deposited in such accounts cannot exceed the maximum amounts stipulated for the savings banks' livret A accounts.

Half of the sums in Crédit mutuel special passbook accounts are allocated to public interest uses. The nature of those uses and the means of compliance with that obligation are determined in an order of the Minister for the Economy.

SECTION II
Popular Savings — Articles L221-13 to L221-23

Subsection 1
The Popular Savings Passbook Account — Articles L221-13 to L221-17-2

Article L221-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The popular savings passbook account is intended to assist the people with the lowest incomes to invest their savings under conditions which maintain their purchasing power.

Article L221-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000 JORF amendment 17 March 2001)

A Conseil d'Etat decree specifies the operational particulars of such passbook accounts, including the conditions under which the deposit-taking institutions are authorised to open popular savings passbook accounts for the beneficiaries thereof.

Article L221-15

(Amending Finance Act No. 2004-1485 of 30 December 2004 Art. 38 V for 2004 Official Journal of 31 December 2004)
(Order No. 2005-429 of 6 May 2005 Art. 36 Official Journal of 7 May 2005)

The benefit of such passbook accounts is reserved for taxpayers who are domiciled in France for tax purposes and who can show, each year, that the tax payable by them on their total income, before application of the tax credits and the standard deductions at source without full discharge, does not exceed a ceiling which is revised each year in the same proportion as the first band of the income tax scale, with the result thus obtained being rounded upwards to the nearest euro.

The tax referred to in the first paragraph is that which is due for collection in the year preceding that in respect of which substantiation is requested.

However, the tax due and payable in the year in which an application to open an account is made shall be retained for the benefit of persons whose family situation or income changed during the previous year. The means through which such taxpayers may prove that they meet the tax ceiling condition are indicated in the decree referred to in Article L. 221-14.

Article L221-16

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Only one popular savings passbook account may be opened for each taxpayer, and one for the taxpayer's spouse.

Article L221-17

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The prohibitions of Article L. 112-2 do not apply to the interest paid on popular savings deposits that meet the stability conditions established as six calendar months.

Article L221-17-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 37 Official Journal of 7 May 2005)

As stated in Article 83 of Act No. 82-1126 of 29 December 1982 reforming the Finance Act for 1983, a State guarantee is granted in regard to repayment of the capital, interest and other income applied to funds deposited in popular savings passbook accounts opened pursuant to the provisions of the present subsection.

Article L221-17-2

(inserted by Order No. 2005-429 of 6 May 2005 Art. 38 I Official Journal of 7 May 2005)

Transactions pertaining to popular savings passbook account are subject to on-site document inspections by the Finance Inspectorate.

Subsection 2
The Popular Savings Plan — Articles L221-18 to L221-23

Article L221-18

(Finance Act No. 2003-1311 of 30 December 2003 Art. 82 III for 2004 Official Journal of 31 December 2003)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Subject to payments being made into an account opened, or a life insurance policy taken out, with a company governed by the Insurance Code or the Mutuality Code, a credit institution, the Bank of France, a Treasury accountant, an investment service provider or a provident institution governed by Article L. 731-1 of the Social Security Code or Article 1050 of the Rural Code, a Popular Savings Plan gives entitlement to repayment of the sums paid in and their capitalised income or to payment of a life annuity.

A plan may be opened by one taxpayer or by each spouse subject to joint taxation.

The amount of the payments is subject to a ceiling determined by the regulations.

With effect from 25 September 2003, no further Popular Savings Plans may be opened.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L221-19

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Payments made by a plan holder who is domiciled in France for tax purposes and whose income tax contributions for the year before last do not exceed the limit referred to in 1a of Article 1657 of the General Tax Code give entitlement, for the first seven years, or for the first ten years when a regular-premium life insurance policy was taken out in conjunction with a popular savings plan before 5 September 1996, to a bonus payment equal to one quarter of the annual amount thereof, subject to an annual ceiling determined by decree.

Payments made from 1 January 1998 onwards give entitlement to that same bonus payment, provided that the plan holder's income for the year before last did not exceed the limits set in I of Article 1417 of the General Tax Code.

The sum of the bonus payments and capitalised interest is paid by the State when seven calendar years have elapsed since the inception of the plan or when ten calendar years have elapsed since the inception of the plan when a regular-premium life insurance policy was taken out in conjunction with a popular savings plan before 5 September 1996.

However, a popular savings plan holder who took out a regular-premium life insurance policy in conjunction with his plan before 5 September 1996 may benefit from the bonus payment and capitalised interest thereon when seven calendar years have elapsed with effect from the inception of the plan, provided that he submits a request to that effect in writing to the plan's management company, on unstamped paper, before 1 July of the eighth year following inception of the plan. In which case, contrary to the first paragraph of the present article, payments made into the plan with effect from 1 January of the eighth year following inception of the plan do not give entitlement to a bonus payment.

Article L221-20

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any withdrawal of funds entails closure of the plan. The plan is closed upon the death of the holder.

Beyond the tenth year, withdrawals do not entail closure of the plan. No payment may be made after the first withdrawal, however.

Article L221-21

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any management company of a popular savings plan which is unable to produce the contractually required supporting documents within three months of a request being made by the relevant department or auditing body must repay to the State the bonus payments in respect of which supporting documents have not been produced, together with the capitalised interest thereon.

These provisions apply to agreements entered into between those institutions and the Government before 1 January 1997 in respect of sums paid with effect from 1 January 1997.

Article L221-22

(Order No. 2005-429 of 6 May 2005 Art. 39 I Official Journal of 7 May 2005)

Under certain conditions, Popular Savings Plans give entitlement to tax benefits and, for plans opened before 22 September 1993, a savings premium.

The administration of Popular Savings Plans is subject to on-site document inspections by the Finance Inspectorate.

Article L221-23

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree specifies the eligible transactions under the Mutual Insurance Code, Part III of Book VII of the Social Security Code, or Article 1050 of the Rural Code, and also the implementing regulations for the present subsection, including the declaration obligations of taxpayers and intermediaries.

SECTION III

The Young Person's Savings Account — Articles L221-24 to L221-26

Article L221-24

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The right to open a young person's savings account and make deposits and withdrawals thereon is restricted to natural persons aged between twelve and twenty-five years who are habitually resident in France.

When those persons are aged under sixteen years, the consent of their legal representative is only required for withdrawals. When they are aged between sixteen and eighteen years, they may effect such movements themselves unless their legal representative raises an objection.

Article L221-25

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

An individual may hold only one young person's savings account.

Article L221-26

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree determines the young person's savings account's operational particulars, including the conditions under which it is opened, the interest it bears, and its closure, particularly when the holder reaches the age of twenty-five years, as well as its supervision.

The said decree also determines the circumstances in which breaches of the rules laid down in the present section may, based on a ruling from the Minister for the Economy and after the party concerned has been invited to comment thereon, result in loss of interest on all the sums deposited, but that deduction shall not affect interest accrued more than three years prior to discovery of the breach.

SECTION IV

The Industrial Development Account — Articles L221-27 to L221-28

Article L221-27

(Order No. 2005-429 of 6 May 2005 Art. 40 I Official Journal of 7 May 2005)

Industrial Development Accounts are opened with institutions and other entities authorised to take deposits. The sums deposited in such accounts are used to finance small and medium-sized enterprises.

The rules for opening and running Industrial Development Accounts are laid down in quater 9 of Article 157 of the General Tax Code, and by decree.

Transactions relating to Industrial Development Accounts are subject to on-site document inspections by the Finance Inspectorate.

Article L221-28

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The institutions which take industrial development account deposits make a written report available to the holders of those accounts each year which sets out the details of the financial assistance to industry provided through the funds thus collected.

The form and content of the said written report are determined in a ruling from the Minister for the Economy.

SECTION V

The Home-Ownership Savings Plan — Articles L221-29 to L221-32

Article L221-29

(Act No. 2003-721 of 1 August 2003 Art. 31 Official Journal of 5 August 2003)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The rules relating to home-ownership savings plans are laid down in Articles L. 315-1 to L. 315-3 of the Building and Housing Code, reproduced hereunder:

"Art. L. 315-1. - The purpose of home-ownership savings plans is to enable loans to be granted to natural persons who have made deposits into a home-ownership savings account and who use their savings to finance a dwelling to be used as their main residence.

The holders of a home-ownership savings plan who do not use their savings to finance a dwelling to be used as their main residence under the terms of the first paragraph may use them to finance dwellings having another use as provided for in a Conseil d'Etat decree which determines the authorised uses. Those uses exclude any commercial or professional use, with the exception of tourist accommodation.

The foregoing provisions do not prevent a home-ownership savings plan from being used to finance premises intended for commercial or professional use if they also include the holder's main residence."

"Art. L. 315-2. - Home-purchase loans pertaining either to dwellings which are to be used as the main residence or to the premises referred to in the third paragraph of Article L. 315-1 are granted to finance the construction, purchase and extension costs, or the costs of certain repairs and improvements.

Home-purchase loans pertaining to dwellings having a different use are granted to finance the construction and extension costs, or the costs of certain repairs and improvements.

Home-purchase loans granted between 1 January 1996 and 31 December 1996 may be used to finance the purchase costs of dwellings referred to in the previous paragraph."

"Art. L. 315-3. - Home-purchase savings deposits are taken by the Caisse nationale d'épargne and the ordinary savings banks, and also by banks and credit institutions which enter into an agreement with the Government through

which they undertake to apply the rules applicable to home-ownership savings plans."

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L221-30

(inserted by Order No. 2005-429 of 6 May 2005 Art. 41 I Official Journal of 7 May 2005)

Taxpayers who are domiciled in France for tax purposes may open a personal equity plan with a credit institution, the Caisse des dépôts et consignations, the Bank of France, the Post Office, an investment firm or an insurance company governed by the Insurance Code.

A plan may be opened by one taxpayer or by each spouse subject to joint taxation. A plan can have only one holder.

A plan entails the opening of a securities account and a linked cash account, or, for plans opened with an insurance company, the signing of a capitalisation contract.

The plan holder makes cash payments up to a limit of 132,000 euros.

Article L221-31

(inserted by Order No. 2005-429 of 6 May 2005 Art. 41 I Official Journal of 7 May 2005)

I. - 1 Sums paid into a personal equity plan are used in one or more of the following ways:

a) Shares or investment certificates of companies and cooperative investment certificates;

b) Shares of limited liability companies or companies having equivalent status, and capital securities of companies governed by Act No. 47-1775 of 10 September 1947 enshrining a statute of cooperation;

c) Subscription or allotment rights or warrants attached to the shares referred to in a) and b) above;

2 Sums paid into a personal equity plan may also be used to subscribe to:

a) Units of unit trusts which place more than 75% of their assets in securities and rights referred to in a), b) and c) of 1;

b) Units of open-end investment companies which place more than 75% of their assets in securities and rights referred to in a), b) and c) of 1;

c) Units or shares of undertakings for collective investment in transferable securities established in other European Community Member States or in a State which is not a member of that Community but is a party to the European Economic Area Agreement and has entered into a tax treaty with France which contains an administrative assistance clause to combat fraud or tax evasion and thus benefits from the mutual recognition of approvals procedure specified by Council Directive 85/611/EC of 20 December 1985 which harmonises the legislative, regulatory and administrative provisions relating to certain undertakings for collective investment in transferable securities (OPCVMs), and which place more than 75% of their assets in securities and rights referred to in a), b) and c) of 1;

3 Sums paid into a personal equity plan may also be used in a capitalisation contract as units of accumulation governed by the Insurance Code and invested in one or more categories of securities referred to above, without prejudice to the provisions of Article L. 131-1 of that same code;

4 Issuers of the securities referred to in 1 must have their registered office in France or another European Community Member State or a State which is not a member of that Community but is a party to the European Economic Area Agreement and has entered into a tax treaty with France which contains an administrative assistance clause to combat fraud or tax evasion, and must be subject to corporation tax or an equivalent tax under common law. For application of Articles L. 221-30 to L. 221-32, the condition relating to the normal taxation rate does not apply to the new companies referred to in Article 44 sexies of the General Tax Code or the companies referred to in 1 ter and 3 septies of Article 208 and in Article 208 C of that same code.

II. - 1 The units of the funds referred to in 3 of III of Article 150-0 A of the General Tax Code cannot be placed in personal equity plans.(

Sums paid into a personal equity plan cannot be used to buy securities offered in the manner indicated in Article 80 bis of the General Tax Code;

2 Securities or shares whose acquisition entitles the plan holder to the tax benefits resulting from the provisions of 2 quater and 2 quinquies of Article 83, Articles 83 ter, 163 septdecies, 199 undecies, 199 undecies A and 199 terdecies A, of I bis of Article 163 bis C of the General Tax Code, as well as the second paragraph of II of Article 726 of that same code cannot be placed in the plan;

3 The plan holder, his spouse and their ascendants and descendants must not collectively hold, or have held, directly or indirectly, more than 25% of the rights over the profits of companies whose securities are included in the plan either during term of the plan or at any time during the five years preceding acquisition of those securities through the plan.

III. - The sums or values deriving from the investments made in a personal equity plan are reinvested in the plan in the same way as the instalments.

Article L221-32

(inserted by Order No. 2005-429 of 6 May 2005 Art. 41 I Official Journal of 7 May 2005)

I. - Beyond the eighth year, partial withdrawals of sums or securities and, in the case of capitalisation contracts, partial redemptions, do not give rise to closure of the personal equity plan. No further investment is possible after the

first withdrawal or the first redemption, however.

II. - Any withdrawal of sums or securities from the plan, or any redemption, before the eighth year has elapsed shall entail closure of the plan.

Notwithstanding this provision, withdrawals or redemptions of sums or securities from the plan may be made during the eight years following inception of the plan without giving rise to closure provided that the said sums or securities are used, during the three months following the withdrawal or redemption, to finance the creation or takeover of a business which the plan holder, his spouse or an ascendant or descendant of his personally operates or manages if the said sums or securities are applied to a cash contribution to a company's initial capital, to the purchase of an existing business or to the owner's capital account of an individual business created within three months of the date of payment. No further investment is possible after the first withdrawal or the first redemption, however.

Article L222-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules pertaining to the company savings scheme are laid down in Articles L. 443-1 to L. 443-8 of the Labour Code.

Article L223-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The issue, promotion, and offering for sale or distribution by way of public offering, of promissory notes or bearer notes which contain a trader's undertaking to effect payment on a specific maturity date in return for a loan are governed by the provisions of the present Chapter.

The term of such notes shall not exceed five years.

Article L223-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The certificates issued to the lenders shall indicate, in addition to the details of the commercial court at which the issuer is registered, his identification number in the Trade and Companies Register, his surname, forenames and address, the purpose of the business, the place where it is conducted, the trading name, and, if the issuer is a company, its legal form, its name, its capital, and the address of its registered office.

The certificates also contain the issuer's most recent balance sheet, which he/it certifies as true and accurate.

Article L223-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The notes referred to in Article L. 223-1 cannot be issued by private individuals or companies which have not drawn up the balance sheet for their third year of trading.

Article L223-4
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of the present Chapter are not applicable to credit institutions or companies whose borrowings are subject to a special legal or regulatory regime or which benefit from a guarantee provided by the State, Departments, Communes or public institutions.

Article L231-1
(Act No. 2003-706 of 1 August 2003 Art. 134 VIII Official Journal of 2 August 2003)

(Order No. 2005-429 of 6 May 2005 Art. 42 Official Journal of 7 May 2005)

Offences relating to bonds are envisaged and punishable as provided for in Article L. 245-9 of the Commercial Code.

Subsection 2
Securities Issued by Associations — Article L231-2

Article L231-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of any executive, de facto or de jure, of an association issuing bonds without fulfilling the conditions laid down in Articles L. 213-8 and L. 213-10 shall be punished with a fine of 9,000 euros.

SECTION II
Offences relating to Collective Investment — Articles L231-3 to L231-21

Subsection 1
Provisions relating to Undertakings for Collective Investment in Transferable Securities — Articles L231-3 to L231-7-1

Article L231-3

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Whoever, de jure or de facto, manages an organisation which makes collective investments in transferable securities without approval, or continues to do so despite its approval being withdrawn, shall be punished by two years' imprisonment and a fine of 750,000 euros.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L231-4

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

I. - The fact of the executives of the management company of a unit trust, a property bond fund or a securitisation fund failing to give effect to the appointment of the fund's auditor as determined in Article L. 214-29 shall incur a penalty of two years' imprisonment and a fine of 15,000 euros.

II. - The fact of any auditor, either in his own name, or in his capacity as a partner in an auditing firm, giving or confirming untruthful information concerning the financial situation of a unit trust, property bond fund or securitisation fund or not revealing any criminal acts he was aware of to the Public Prosecutor, shall incur a penalty of five years' imprisonment and a fine of 18,000 euros.

III. - The fact of the executives of the management company or the custodian firm of a unit trust, property bond fund or securitisation fund, or any person placed under their authority, obstructing the auditors' verifications or checks or refusing to provide them, in situ, with any document conducive to the performance of their duties, including all contracts, books, accounting records and minute books, shall incur a penalty of five years' imprisonment and a fine of 18,000 euros.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L231-5

(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

The fact of any person failing to meet the obligations stipulated in the penultimate paragraph of Article L. 214-36, the last paragraph of Article L. 214-42 and the last paragraph of Article L. 214-44, is punishable as provided for in Articles 313-1, 313-7 and 313-8 of the Penal Code.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L231-6

(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Any final sentence imposed on the executives of the management company or of the custodian pursuant to Article L. 231-3, I and III of Article L. 231-4, and Articles L. 231-5 and L. 231-7, shall automatically entail the cessation of their functions and disqualification from exercising the said functions.

The court to which the action for damages envisaged in Article L. 214-28 is submitted may order the dismissal of the

management company's executives or those of the custodian at the request of any unitholder.

Moreover, the custodian may ask the court to dismiss the management company's executives; it must inform the auditor thereof.

In these three cases, a temporary administrator is appointed by the court until such time as new executives are appointed, or, if such appointments seem impossible, until liquidation takes place.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L231-7

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Art. 40 V Official Journal of 2 August 2003)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

The fact of the promoters of a securitisation fund investing that fund's units without the approval of the fund's management company or without approval from the Financial Markets Authority shall incur a penalty of two years' imprisonment and a fine of 750,000 euros.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L231-7-1

(inserted by Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

The fact of a de jure or de facto manager of an undertaking for collective investment in real property investing that fund's units or shares without approval or continuing to do so despite his approval being withdrawn shall be punished by two years' imprisonment and a fine of 750,000 euros.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Subsection 2
Provisions relating to Real-Property Investment Partnerships — Articles L231-8 to L231-21

Article L231-8

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact, on the part of a property investment company's management company's executives, of failing to comply with the provisions of Articles L. 214-53 to L. 214-55 and L. 214-59 to L. 214-62 shall incur a fine of 18,000 euros.

Article L231-9

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a property investment company's management company failing to comply with the provisions of Articles L. 214-50 and L. 214-63 shall incur a penalty of five years' imprisonment and a fine of 9,000 euros.

Article L231-10

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Whoever commits the following offences shall be punished by five years' imprisonment and a fine of 9,000 euros:

1. Stating that subscriptions which he knows to be fictitious are sincere and genuine or declaring that funds which have not in fact been made available to the company have actually been paid;

2. Obtaining or seeking to obtain subscriptions or payments through simulation of subscriptions or payments or publication of non-existent subscriptions or payments or by means of any other false facts;

3. Publishing, for the purpose of obtaining subscriptions or payments, the names of persons who are purportedly associated with the company in some way when such is not the case;

4. Fraudulently attributing to a contribution in kind a valuation greater than its true value.

Article L231-11

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000 JORF amendment 17 March 2001)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a property investment company's management company committing the following offences shall incur a penalty of five years' imprisonment and a fine of 375,000 euros:

1. Making a distribution of fictitious dividends among the members;

2. Publishing, or supplying to the members, inaccurate information so as to conceal the company's true situation;

3. Using the company's property or credit in a way that they know to be contrary to its interests, for their personal

ends or to benefit another company in which they have a direct or indirect interest;

4. Using the powers they hold or the votes associated therewith in a manner that they know to be contrary to the company's interests, for their personal ends or to benefit another company in which they have a direct or indirect interest.

Article L231-12

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the management company's executives committing the following offences shall incur a fine of 9,000 euros:

1. Failure to comply with the provisions of Article L. 214-72;

2. Refusing to make the documents stipulated in the third paragraph of Article L. 214-73 available to the members;

3. Failure to comply with the provisions that specify how any promotion or advertising for investment in the units of Real-Property Investment Partnerships must be carried out;

4. Failure to hold an ordinary general meeting within six months of the close of the accounting period or, if an extension has been granted, within the time limit set by a court decision, or failure to submit the documents indicated in the first and second paragraphs of Article L. 214-78 to the said meeting for approval.

Article L231-13

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a property investment company's management company failing to send any member who so requests a form of proxy pursuant to the prescriptions determined by decree, as well as:

1. the text of, and explanatory memorandum for, the draft resolutions on the agenda,

2. the report of the auditor(s) which is to be presented to the meeting,

shall incur a fine of 3,750 euros.

Article L231-14

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Whoever commits the following offences shall be punished by two years' imprisonment and a fine of 9,000 euros:

1. Preventing a member from participating in a meeting;

2. Voting at a meeting by falsely claiming to be a member, either directly or through an intermediary;

3. Procuring an agreement for, or a guarantee or promise of, advantages for voting in a certain way or for not participating in a vote, or agreeing, guaranteeing or promising such advantages.

Article L231-15

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a property investment company's management company committing the following offences shall incur a fine of 3,750 euros:

1. Failure to complete an attendance sheet for any meeting of the members which is signed by the members and representatives present and certified as accurate by the meeting's committee, and which contains:

a) The surname, usual forename and domicile of each partner present and the number of units he holds;

b) The surname, usual forename and domicile of each representative and the number of units his principals hold;

c) The surname, usual forename and domicile of each partner represented and the number of units he holds.

2. Failure to append the proxies given to each representative to the attendance sheet.

3. Failure to record the decisions of any meeting of members in minutes which are signed by the members of the committee and kept in a special file at the registered office which indicates the date and venue of the meeting, the means used to convene it, the agenda, the composition of the committee, the number of units represented in the voting, the documents and reports submitted to the meeting, a summary of the proceedings, the text of the resolutions put to the vote and the results of the voting.

Article L231-16

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the management company's executives failing to give effect to the appointment of the company's auditors shall incur a penalty of two years' imprisonment and a fine of 9,000 euros.

Article L231-17

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of any person, either in his own name, or in his capacity as a partner in an auditing firm, accepting, performing or retaining auditing functions notwithstanding the legal disqualifications stipulated in the second paragraph of Article L. 214-79 shall incur a penalty of six months' imprisonment and a fine of 9,000 euros.

Article L231-18

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of an auditor, either in his own name, or in his capacity as a partner in an auditing firm, giving or confirming untruthful information concerning the property investment company's financial situation or not revealing any criminal acts he was aware of to the Public Prosecutor, shall incur a penalty of five years' imprisonment and a fine of 18,000 euros.

Articles 226-13 and 226-14 of the Penal Code are applicable to auditors.

Article L231-19

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the management company's executives or any person in the service of the company obstructing the auditors' verifications or checks or refusing to provide them, in situ, with any document conducive to the performance of their duties, shall incur a penalty of five years' imprisonment and a fine of 18,000 euros.

Article L231-20

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the liquidator using the property or credit of the company in liquidation in a manner that he knows to be contrary to its interests, for his personal ends or to benefit another company in which he has a direct or indirect interest, shall incur a penalty of five years' imprisonment and a fine of 9,000 euros.

Article L231-21

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the management company's executives exercising their functions if the company has not obtained authorisation from the Stock Exchange Commission pursuant to the provisions of Article L. 214-67, or after the withdrawal of such authorisation, shall incur a penalty of two years' imprisonment and a fine of 750,000 euros.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L232-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The fact of the issuer reproducing an inaccurate balance sheet which is falsely certified true and fair in the cases envisaged in the second paragraph of Article L. 223-2 shall incur the penalties provided for in Articles 313-1, 313-7 and 313-8 of the Penal Code.

Article L232-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Any violation of the provisions of Article L. 223-1, the first paragraph of Article L. 223-2, or Article L. 223-3, shall be punished by a fine of 3,750 euros. If the offender re-offends within five years, a two-year prison sentence may be imposed.

The offences referred to in the present article and in Article L. 232-1 may be placed on record by the registration agents.

BOOK III
Services — Articles L311-1 to L353-6

Article L311-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Banking transactions comprise the receiving of funds from the public, credit transactions and the provision to customers, or administration of, means of payment.

Article L311-2

(Order No. 2005-429 of 6 May 2005 Art. 43 Official Journal of 7 May 2005)

Credit institutions may also carry out transactions related to their business such as:

1. Foreign exchange transactions;

2. Transactions involving gold, precious metals and metallic coins;

3. Investing in, subscribing to, purchasing, managing, safekeeping and selling transferable securities and any other financial product;

4. Consultancy and assistance pertaining to asset management;

5. Consultancy and assistance pertaining to financial management, financial engineering and, more generally, all services intended to facilitate the creation and development of companies, without prejudice to the legislative provisions relating to the illegal practice of certain professions;

6. The ordinary leasing of movable or immovable property for institutions authorised to carry out leasing transactions.

When it consists of providing investment services within the meaning of Article L. 321-1, the carrying out of related transactions and custody is subject to the prior approval referred to in Article L. 532-1.

Article L311-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any instrument which enables any person to transfer funds is considered to be a means of payment, regardless of the medium or the technical process used.

Article L312-1

(Act No. 2001-1168 of 11 December 2001 Art. 13 I 1 Official Journal of 12 December 2001)
(Order No. 2005-429 of 6 May 2005 Art. 44 Official Journal of 7 May 2005)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

Any natural person or legal entity domiciled in France who/which does not hold a deposit account is entitled to open such an account with the credit institution of his/its choice or with the Post Office's financial departments.

The opening of such an account takes place after submission of a sworn statement to the credit institution attesting to the fact that the applicant does not already hold an account. In the event of the chosen institution refusing, the person may make an application to the Bank of France requesting that it designate a credit institution or the Post Office's financial departments.

Credit institutions and the Post Office's financial departments may only limit the services associated with the opening of a deposit account to the basic banking services in circumstances specified by decree.

Moreover, an institution designated by the Bank of France which limits the use of a deposit account to the basic banking services provides those services on a scale of charges determined by decree.

Any decision to close an account at the initiative of the credit institution designated by the Bank of France must be explained in an official letter sent to the customer, and to the Bank of France for information. The accountholder must be given at least forty-five days' notice.

These provisions apply to persons who have issued a cheque without cover.

NB (1): Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

NB (2): Act 2005-516 2005-05-20 Art. 16 IV: In the first and third paragraphs of Article L. 312-1, the words "the financial services departments," are deleted. Words not found.

Article L312-1-1

(Act No. 2001-1168 of 11 December 2001 Art. 13 I 1 and 2 Official Journal of 12 December 2001 effective 12 December 2002)

(Act No. 2003-706 of 1 August 2003 Art. 77 I 2 Official Journal of 2 August 2003)

(Finance Act No. 2004-1484 of 30 December 2004 Art. 106 for 2005 Official Journal of 31 December 2004)

I. - Credit institutions are required to inform their customers and the public of the general conditions and service charges applicable to a deposit account, as stipulated in an order of the Minister for the Economy and Finance.

The management of a natural person's deposit account opened on or after 28 February 2003 which is not used for business purposes is governed by a written agreement between the customer and his/her credit institution or the Post Office's financial departments. The signing of the said contract by the accountholder(s) confirms his/their acceptance of its terms.

For accounts opened before that date which are not the subject of a signed or tacitly approved agreement, a draft deposit account agreement is sent to the customer at his request. Acceptance of the said contract is confirmed by the accountholder(s) signing within three months of receiving it.

Until 31 December 2009, credit institutions and the Post Office's financial departments are required, once each year at least, to inform customers who do not have a deposit account agreement that they may sign one if they wish.

The main stipulations of that deposit account agreement, including the general conditions and the charges applicable to opening, maintaining and closing the account, are specified in an order of the Minister for the Economy and Finance.

The customer must be informed in writing of any proposed change to the pricing structure applicable to the deposit account three months before the date scheduled for its application. Failure to reply to the said letter within two months constitutes acceptance of the new pricing structure by the customer.

The deposit account agreement cannot provide for fees to be charged to a customer for the closure or transfer of an account carried out at his request following his rejection of proposed substantial amendments to the conditions and charges applicable to his deposit account, and no such charges shall be applied.

II. - Unless the account agreement provides otherwise, all credit and debit transactions on a deposit account must be brought to the customer's notice at regular intervals of not more than one month.

Article L312-1-2

(Act No. 2001-1168 of 11 December 2001 Art. 13 I 1 and 2 Official Journal of 12 December 2001 effective 12 December 2002)

(Finance Act No. 2004-1484 of 30 December 2004 Art. 106 for 2005 Official Journal of 31 December 2004)

(Order No. 2005-429 of 6 May 2005 Art. 45 Official Journal of 7 May 2005)

I. - 1. The selling or offering for sale of bundled products or services is prohibited unless the products or services included in the bundled offer may be purchased individually or are indissociable.

2. The selling or offering for sale of products or services to a customer which give immediate or eventual entitlement to a pecuniary advantage or a benefit in kind in the form of products, goods or services of a value above a threshold set in relation to the type of product or service offered to the customer in a regulation introduced by order of the Minister for the Economy after consultation with the advisory committee instituted by L. 614-1 is prohibited.

II. - Officials of the Bank of France commissioned by the Minister for the Economy and officials authorised to establish the existence of violations of the provisions of Articles L. 113-3, L. 121-35 and L. 122-1 of the Consumer Code are authorised, in the performance of their duties, to seek to uncover violations of the provisions of I of Article L. 312-1-1 and I of the present article and record them in a statement of offence.

The said officials may enter any premises used for business purposes and request sight of the books and all other business-related documents and make copies thereof, and may either gather information and proof in situ or summon the party concerned to a meeting. They may enter the premises only between the hours of 8.00 a.m. and 8.00 p.m. Professional secrecy cannot be invoked against agents acting under the powers conferred on them by the present article.

The statements of offence relating to prosecutable offences are sent to the Public Prosecutor within five days of being drawn up. In all cases, a copy of the statement of offence is also sent to the party concerned.

Article L312-1-3

(Act No. 2001-1168 of 11 December 2001 Art. 13 I 1 and 2 Official Journal of 12 December 2001 effective 12 December 2002)

(Order No. 2005-429 of 6 May 2005 Art. 45 Official Journal of 7 May 2005)

I. - All credit institutions appoint one or more mediators to recommend solutions for disputes relating to fulfilment by the credit institutions of the obligations referred to in I of Articles L. 312-1-1 and L. 312-1-2. The mediators are chosen on the basis of their expertise and their impartiality.

The mediator is required to give a ruling within two months of being called upon to do so. Referral to the mediator suspends limitation for that period. The findings and declarations gathered by the mediator cannot be produced or invoked in the procedure thereafter without the consent of the parties. This mediation procedure is free of charge. The recourse to mediation and its terms and conditions of access shall be recorded in a note written on the agreement referred to in Article L. 312-1-1 and shall be indicated on the statements of account.

The annual activity report drawn up by each mediator is sent to the Governor of the Bank of France and the chairman of the advisory committee instituted by Article L. 614-1.

II. - A Banking Mediation Committee has been established to examine the mediators' reports and draw up an annual

banking mediation report which is sent to the Conseil national du crédit et du titre. The said committee is also responsible for specifying the terms and conditions under which the mediators' activities take place, with particular emphasis on ensuring their independence. It is informed of the arrangements for, and the amount of, the compensation paid to the mediators by the credit institutions. The committee may make recommendations to the credit institutions and the mediators.

The Banking Mediation Committee is chaired by the Governor of the Bank of France or his representative. The other members are appointed by order of the Minister for the Economy, with seat allocation as follows: an individual proposed by the consumers' and users' panel of the National Consumers' Council, an individual proposed by the French Association of Credit institutions and Investment Firms and two individuals chosen on account of their expertise.

Article L312-1-4

(Act No. 2001-1168 of 11 December 2001 Art. 13 I 1 and 2 Official Journal of 12 December 2001 effective 12 December 2002)

(Act No. 2003-706 of 1 August 2003 Art. 77 III Official Journal of 2 August 2003)

(Finance Act No. 2004-1484 of 30 December 2004 Art. 106 for 2005 Official Journal of 31 December 2004)

The provisions of Articles L. 312-1-1 to L. 312-1-3 are a matter of public policy. They apply to the credit institutions referred to in Article L. 511-1 and the institutions referred to in Article L. 518-1.

Their implementing provisions are set out in a Conseil d'Etat decree.

The credit institutions and the Post Office's financial departments inform their customers of the conditions under which the agreement may be entered into.

SECTION II
Funds Received from the Public — Articles L312-2 to L312-3

Subsection 1
Definition — Article L312-2

Article L312-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Funds which an entity accepts from a third party in the form of deposits with the right to use them for its own account subject to its returning them are considered to be funds received from the public. The following are not considered to be funds received from the public, however:

1. Funds received or left in an account by a partnership's named or limited partners, members or shareholders holding at least 5% of the share capital, directors, members of the Executive Board or Supervisory Board or executives, and likewise funds deriving from equity loans;

2. Funds which a company receives from its employees, subject to the amount thereof not exceeding 10% of its equity capital. Funds received from employees by virtue of special legislative provisions are not taken into account when this threshold is calculated.

Subsection 2
Payment of Interest — Article L312-3

Article L312-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

(Act No. 2003-706 of 1 August 2003 Article 46 III 2, Official Journal of 2 August 2003)

Notwithstanding any provision to the contrary, no credit institution which accepts funds from the public in demand-deposit accounts having a term of less than five years shall, by any means whatsoever, pay a return on such funds in excess of that determined by the Minister for the Economy. Nor shall they open, or maintain open, in irregular circumstances, accounts which benefit from Government aid in the form of a tax exemption, or accept sums for such accounts in excess of the duly authorised ceilings.

Without prejudice to the disciplinary sanctions which may be imposed by the Banking Commission, breaches of the provisions of the present article are punished with a fiscal fine at a rate equal to the amount of the interest paid, which fine shall not be less than 75 euros.

A decree issued on the basis of a report from the Minister for the Economy determines the present article's implementing regulations, including the manner in which breaches shall be recorded and dealt with.

The provisions of the present article apply to the popular savings scheme described in section 2 of Chapter I of Part II of Book II, regardless of the companies, institutions or custodians concerned.

SECTION III
The Depositors' Guarantee — Articles L312-4 to L312-18

Article L312-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Act No. 2003-706 of 1 August 2003 Article 46 VI 2, Official Journal of 2 August 2003)

Credit institutions authorised in France belong to a Deposit Guarantee Fund whose purpose is to indemnify the depositors in the event of their deposits or other repayable funds being unavailable.

The deposits and other funds of credit institutions, insurance companies, unit trusts, pension funds, investment firms and the persons referred to in Article L. 518-1 or 1 of Article L. 312-2 are excluded from the said indemnity. Other deposits and funds may be excluded from the indemnity, as determined for in an order of the Minister for the Economy, as a consequence of information relating to the company's situation, specific advantages that the depositor concerned may have benefited from, the specific nature of certain funds or deposits, or the illicit source of the funds concerned.

Article L312-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - The guarantee fund intervenes at the behest of the Banking Commission when it establishes that one of the institutions referred to in Article L. 312-4 is no longer able, immediately or in the near future, to return the funds it has received from the public in accordance with the legislative, regulatory or contractual conditions applicable to their return. Recourse to the guarantee fund automatically entails the deletion of that institution from the list of authorised credit institutions.

II. - As a precaution, and when proposed by the Banking Commission, the guarantee fund may also intervene in connection with a credit institution whose situation gives grounds for fearing that the deposits or other repayable funds may be unavailable when due, bearing in mind, moreover, the support from which it could benefit. When the guarantee fund agrees to intervene with an institution as a precautionary measure, and having sought the opinion of the Banking Commission, it determines the terms of its intervention. It may make its intervention conditional upon the total or partial sale of the credit institution or the cessation of its business and the sale of its assets.

III. - For application of the present provisions, the guarantee fund may, at the behest of a central body referred to in Article L. 511-30, participate in action taken by the latter by assuming responsibility for a portion of the cost of the measures intended to guarantee the solvency of a credit institution affiliated to that central body.

For application of the provisions of II and III, the guarantee fund may acquire a credit institution's capital shares or, with the approval of the central body concerned, its membership shares.

Appeals against the guarantee fund's decisions made by virtue of the present article come within the scope of the administrative courts.

Article L312-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Deposit Guarantee Fund is subrogated in the rights of the beneficiaries of its intervention in direct proportion to the sums it has paid.

The guarantee fund may bring any action for damages against the de facto and de jure executives of the institutions in which it intervenes, for the purpose of securing repayment of some or all of the sums paid by it. It informs the Banking Commission thereof.

Article L312-7

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

I. - The guarantee fund's member institutions provide it with the financial resources required to accomplish its missions as determined by the Minister for the Economy. The guarantee fund may, moreover, issue non-tradable membership certificates in registered form which the member companies subscribe to when they join.

II. - When the losses incurred by the guarantee fund cannot be covered by the contributions already called, the membership certificates referred to in I cannot yield any return. The par value of each of the said certificates is then reduced in the proportion necessary to absorb the losses. The membership certificates are redeemable only in the event of the member's authorisation being withdrawn under the terms determined by the Minister for the Economy. If a member institution is struck off, its membership certificate is cancelled and the sums paid are retained by the guarantee fund.

III. - The contributions due from the credit institutions affiliated to one of the central bodies referred to in Article L. 511-30 are paid directly to the guarantee fund by that central body.

IV. - The guarantee fund may borrow from its members. For this purpose, it may provide, or request its members to provide it with, the contractually required guarantees.

Article L312-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any member which fails to pay its contribution to the guarantee fund when requested to do so is subject to the penalties provided for in Article L. 613-21, as well as late-payment penalties paid directly to the guarantee fund pursuant to the terms and conditions laid down in that fund's rules and regulations.

Article L312-9

(Order No. 2005-429 of 6 May 2005 Art. 5 Official Journal of 7 May 2005)

The Deposit Guarantee Fund is a private-law corporation. It is managed by an Executive Board acting under the control of a Supervisory Board. The members of the Executive Board and the Supervisory Board are subject to the incapacities referred to in Article L. 500-1.

Article L312-10

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Act No. 2003-706 of 1 August 2003 Article 46 III 3, Official Journal of 2 August 2003)

The Supervisory Board exercises permanent control over the administration of the Deposit Guarantee Fund. It draws up the guarantee fund's rules and regulations and the rules for the use of its funds, which are validated by an order of the Minister for the Economy. It elects its chairman from among its members.

The Supervisory Board approves the accounts and appoints the auditors. A copy of the approved accounts is sent to the Minister for the Economy at the end of each accounting period. The guarantee fund is subject to auditing by the Finance Inspectorate.

The Supervisory Board is composed of twelve members, each of whom represents one or more of the guarantee fund's members, with apportionment as follows:

1. Four members respectively representing the four credit institutions, or groups of credit institutions affiliated to the same central body, which are the largest contributors, as ex-officio members;

2. Two representatives of institutions having a central body as indicated in Article L. 511-30, who are not ex-officio members;

3. Six members representing the other categories of credit institution, who are not ex-officio members.

Article L312-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Supervisory Board's decisions are taken on a simple majority vote, with each member having a number of votes proportionate to its total financial contribution to the guarantee fund and those of the institutions which appointed it as their representative. In the event of there being a hung vote, the chairman has a casting vote.

For the application of Article L. 312-10 and the present article, the amount of the payment made by the central body on behalf of the institutions affiliated to it is taken into account.

Article L312-12

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Executive Board is composed of three members appointed by the Supervisory Board who confer on one of their number the status of chairman. The members of the Executive Board cannot simultaneously exercise functions within institutions or companies which are members of the guarantee fund, nor may they receive remuneration from any of them. Its chairman cannot exercise his functions until he has received authorisation from the Minister for the Economy.

Article L312-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Minister for the Economy, the Governor of the Bank of France, as chairman of the Banking Commission, the chairman of the Financial Markets Council, or their representatives, may address the Supervisory Board and the Executive Board if they so request.

Article L312-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members of the Executive Board and the Supervisory Board, and likewise any person who, on account of his duties, has access to the documents and information held by the guarantee fund, are bound by professional secrecy. Such secrecy cannot be invoked against the judicial authorities acting within the framework of legal proceedings, against the administrative or civil jurisdictions ruling on an appeal against a decision of the Deposit Guarantee Fund, or against the Banking Commission.

Article L312-15

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members of the guarantee fund's Executive Board have access to all the accounting and financial records and auditors' reports of the institution in respect of which the Banking Commission requests action by the guarantee fund pursuant to Article L. 312-5.

Article L312-16

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 2, Official Journal of 2 August 2003)

An order of the Minister for the Economy specifies:

1. The ceiling for compensation per depositor, the terms and conditions of compensation and the arrangements for payment thereof, and the rules relating to the provision of information to the customers;

2. The particulars of the membership certificates, and the terms and conditions of their yield and redemption in the event of authorisation being withdrawn from their subscriber, after deduction, where applicable, of any losses incurred by the fund;

3. The global amount of the annual contributions payable by the members;

4. The circumstances in which it is not necessary for a portion of those contributions to be paid to the guarantee fund subject to appropriate guarantees being put in place;

5. The amount of the minimum contribution of each credit institution which is a member of the guarantee fund;

6. The arrangements for distributing those annual contributions based on the amount of the deposits and other repayable funds weighted in line with the contributions already paid and the indicators of the financial situation of each credit institution involved, including the amount of the equity capital, the commitments and the European solvency ratio, thus reflecting the objective risks to which the member exposes the fund;

7. The terms and conditions applicable to appointment of the Supervisory Board members and the duration of their

tenure.

This regulation cannot be amended unless the opinion of the chairman of the Executive Board of the Deposit Guarantee Fund has been obtained.

Article L312-17

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Until such time as they are covered by a guarantee system in their country of origin, the branches of credit institutions having their registered office in a European Community Member State other than France are required to join a guarantee system in France as stipulated by the Minister for the Economy.

Article L312-18

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 2, Official Journal of 2 August 2003)

An order of the Minister for the Economy, issued after the opinion of the Financial Markets Council is obtained, determines the conditions under which credit institutions and investment firms authorised in another European Economic Area Member State may join the guarantee fund.

CHAPTER III
Loans — Articles L313-1 to L313-51

SECTION I
General Provisions — Articles L313-1 to L313-6

Subsection 1
Definition — Article L313-1

Article L313-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any act through which a person, acting in return for payment, makes, or promises to make, funds available to another person or gives an undertaking in favour of that person by signing a aval, a security bond or other guarantee, constitutes a credit transaction.

Leasing, and, in general, all rental transactions accompanied by an option to purchase, are treated as credit transactions.

Subsection 2
Interest Rates — Articles L313-2 to L313-5-2

Article L313-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The legal interest rate is, in all cases, determined by decree for the whole of the calendar year.

It is equal, for the year in question, to the arithmetic mean of the last twelve monthly averages of the actuarial rate of return of the thirteen-week fixed-rate Treasury Bill auctions.

Article L313-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the event of a financial penalty being imposed by a court decision, the legal interest rate is increased by five points when two months have elapsed with effect from the day on which the court's decision became enforceable, if only as a provision.

At the request of the debtor or the creditor, however, and in consideration of the debtor's situation, the execution judge may exempt the latter from the said increase or reduce the amount thereof.

Article L313-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-721 of 1 August 2003 Article 32 II 1, Official Journal of 5 August 2003)

The rules pertaining to the annual percentage rate of loans are laid down in Articles L. 313-1 and L. 313-2 of the Consumer Code, which are reproduced below:

Article L. 313-1 - In all cases, for determination of the annual percentage rate of the loan, and that of the effective rate used as a reference, the fees, commissions or payments of all kinds, direct or indirect, are added to the interest, including those which are paid or due to intermediaries who were in some way involved in the granting of the loan, even if those fees, commissions or payments relate to actual disbursements.

However, for the application of Articles L. 312-4 to L. 312-8, the charges relating to any guarantees associated with the loans and the fees of ministerial officers are not included in the annual percentage rate defined above when the amount thereof cannot be precisely indicated before the contract is actually entered into.

Moreover, for loans which are subject to graduated amortisation, the annual percentage rate calculation must take

account of the amortisation arrangements for the debt.

A Conseil d'Etat decree shall determine the present article's implementing legislation.

Article L. 313-2 - The annual percentage rate determined as provided for in Article L. 313-1 must be referred to in any document which constitutes a loan contract governed by the present section.

Any violation of the provisions of the present article shall be punished by a fine of 4,500 euros.

Article L313-5

(Act No. 2003-721 of 1 August 2003 Art. 32 I Official Journal of 5 August 2003)
(Act No. 2005-882 of 2 August 2005 Art. 7 I Official Journal of 3 August 2005)

The usury rate is defined in Article L. 313-3 of the Consumer Code, reproduced hereunder:

"Art. L. 313-3. - Any contractual loan granted at an annual percentage rate which, at the time of its granting, is more than one third higher than the average percentage rate applied by credit institutions during the previous quarter for loans of the same type presenting a similar risk factor, as specified by the administrative authority after consultation with the Conseil national du crédit, is a usurious loan.

Loans granted in connection with hire-purchase agreements are, for application of the present section, treated as contractual loans and considered to be usurious on the same basis as cash loans having the same object.

The procedures for calculating and publishing the average effective rates referred to in the first paragraph are determined by the regulations.

The provisions of the present article and those of Articles L. 313-4 to L. 313-6 are not applicable to loans granted to a natural person for his business requirements or to a legal entity engaged in an industrial, commercial, craft-trade, agricultural or non-commercial business activity."

Article L313-5-1

(Act No. 2003-721 of 1 August 2003 Art. 32 II 2 Official Journal of 5 August 2003)
(Act No. 2005-882 of 2 August 2005 Art. 7 II Official Journal of 3 August 2005)

In the case of overdrafts, any contractual loan granted to a legal entity engaged in an industrial, commercial, craft-trade, agricultural or non-commercial business activity at an annual percentage rate which, at the time of its granting, is more than one third higher than the average effective rate applied by credit institutions during the previous quarter for loans of the same type presenting a similar risk factor, as specified by the administrative authority after consultation with the Conseil national du crédit et du titre, is a usurious loan.

The procedures for calculating and publishing the average effective rates referred to in the first paragraph are determined by decree.

Article L313-5-2

(inserted by Order No. 2003-721 of 1 August 2003 Article 32 II 2, Official Journal of 5 August 2003)

When a contractual loan is usurious, the excessive receipts within the meaning of Articles L. 313-4 and L. 313-5-1 are automatically applied to the normal interest and subsidiarily to the capital of the loan.

If the loan is extinguished in regard to both principal and interest, the sums wrongfully received must be returned, together with interest at the legal rate calculated from the day of their settlement.

Subsection 3
Deliberate Defaults Register — Article L313-6

Article L313-6

(Act No. 2003-706 of 1 August 2003 Art. 46 II Official Journal of 2 August 2003)
(Act No. 2003-710 of 1 August 2003 Art. 35 XIII, Art. 36 Official Journal of 2 August 2003)
(Act No. 2004-801 of 6 August 2004 Art. 18 IX Official Journal of 7 August 2004)
(Act No. 2005-32 of 18 January 2005 Art. 126 Official Journal of 19 January 2005)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The rules pertaining to the Deliberate Defaults Register are laid down in Articles L. 333-4 and L. 333-5 of the Consumer Code, reproduced hereunder:

"Article L. 333-4. - A national register of information relating to instances of deliberate non-payment of loans granted to natural persons for non-commercial purposes has been established. The said register is administered by the Bank of France. It is subject to the provisions of Act No. 78-17 of 6 January 1978 relating to information technology, computer records and freedom.

The credit institutions referred to in Act No. 84-46 of 24 January 1984 relating to the activities and supervision of credit institutions are required to declare the instances referred to in the previous paragraph to the Bank of France. The cost of making such declarations shall not be invoiced to the natural persons concerned.

When the commission instituted by Article L. 331-1 has verified that the debtor referring a case to it is in the situation referred to in the first paragraph of Article L. 331-3, it informs the Bank of France thereof in order to initiate an entry in the register established by the first paragraph of the present article. The same obligation applies to the clerk's office of the execution judge when that judge recognises the situation referred to in Article L. 331-2 in an appeal lodged by the party concerned pursuant to the second paragraph of Article L. 331-3 or when the debtor has benefited from a clearing of debts resulting from a personal re-establishment procedure pursuant to Article L. 332-9.

The register records the measures set out in the contractual recovery plan referred to in Article L. 331-6. The Commission informs the Bank of France of those measures. The registration is maintained throughout the entire term of the contractual plan, but shall not exceed ten years.

The register also records the measures taken by virtue of Articles L. 331-7 and L. 331-7-1, which are reported to the Bank of France by the clerk's office of the execution judge. For the measures described in Article L. 331-7 and the first paragraph of Article L. 331-7-1, the registration is maintained throughout the entire period during which those measures are applied, but shall not exceed ten years. For the measures described in the third paragraph of Article L. 331-7-1, the registration period is set at ten years.

Only the Bank of France is authorised to maintain the centralised records referred to in the previous paragraph.

Only the professional bodies or central bodies representing the institutions referred to in the second paragraph are authorised to keep registers of instances of non-payment.

The Bank of France is released from professional secrecy in regard to provision of the personalised information contained in the register to the aforementioned credit institutions and financial departments.

The Bank of France, the credit institutions and the Post Office are prohibited from providing anyone, in any form whatsoever, with a copy of the information contained in the register, including the person concerned when he exercises his right of access pursuant to the aforementioned Article 39 of Act No. 78-17 of 6 January 1978, under pain of the penalties provided for in Articles 43 and 44 of that same Act.

Art. L. 333-5. - A ministerial order introduced after consultation with the National Commission for Information Technology and Freedom of Information and the Financial Sector Consultative Committee determines the arrangements for collecting, registering, maintaining and accessing that information."

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION II
Loan Categories — Articles L313-7 to L313-22

Subsection 1
Leasing — Articles L313-7 to L313-11

Article L313-7

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)
(Act No. 2005-882 of 2 August 2005 Art. 27 I Official Journal of 3 August 2005)

The leasing transactions referred to in the present subsection include:

1. The leasing of capital goods or tools specifically purchased for leasing by companies which retain ownership thereof, when such leases, regardless of their nature, give the lessee the possibility of buying some or all of the leased goods at an agreed price which takes account, at least partially, of the instalments paid under the lease;

2. Transactions through which a company leases real property for professional use which it has bought or had built, when such transactions, regardless of their nature, enable the lessees to become the owners of some or all of the leased properties, upon expiry of the lease at the latest, via transfer upon execution of a promise to sell or via direct or indirect acquisition of title to the land on which the leased property is built, or via automatic transfer of title to the buildings standing on the land belonging to the said lessee.

In the event of a lease being entered into for the renewal right on a lease, the said right may be invoked only by the lessor, notwithstanding the provisions of Article L. 145-8 of the Commercial Code. The lessee's other rights and obligations under the provisions of the aforementioned decree are contractually distributed between the owner, the lessor and the lessee.

3. The leasing of a handicraft establishment or other business, or one of its intangible elements, associated with a promise to sell at an agreed price which takes account, at least partially, of the payments made under the lease, excluding any lease entered into with the former owner of the handicraft establishment or other business.

4. The leasing of shares or partnership shares provided for in Articles L. 239-1 to L. 239-5 of the Commercial Code, together with a promise to sell at an agreed price which takes account, at least partially, of the instalments paid under the lease.

Article L313-8

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

In the event of goods included in a leasing transaction being assigned, the assignee is bound by the same obligations as the assignor and the latter remains guarantor thereof throughout the term of the lease.

Article L313-9

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

The provisions of the second and third paragraphs of Article 3-1 of decree No. 53-960 of 30 September 1953, as amended and supplemented by Act No. 65-356 of 12 May 1965, do not apply to real-property leasing contracts.

Under pain of being declared null and void, such contracts delineate the circumstances in which they may be cancelled, if necessary, at the lessee's request.

Article L313-10

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

The transactions referred to in Article L. 313-7 are subject to publication as determined by decree. Such decree specifies the circumstances in which failure to publish entails unenforceability against third parties.

Article L313-11

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

Registrations of leasing transactions for moveable property made by virtue of Article L. 313-10 lapse after five years, unless they are renewed.

Subsection 2
Business Loans — Articles L313-12 to L313-22

Paragraph 1
Working Capital Loans — Article L313-12

Article L313-12

(Act No. 2003-721 of 1 August 2003 Art. 24 Official Journal of 5 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

Any open-ended facility, other than an occasional one, that a credit institution grants to a firm may be reduced or terminated only after written notice has been served and upon expiry of a notice period determined at the time the facility was granted. Under pain of the facility being declared null and void, the said notice period shall not be shorter than a term set, per category of loan and consistent with banking practices, in a decree issued after consultation with the Banking Commission. The credit institution shall not be held liable for any financial damage suffered by other creditors due to its maintaining its commitment throughout that period.

Whether the credit facility is open-ended or fixed-term, the credit institution is not required to comply with a notice period in the event of seriously reprehensible conduct on the part of the recipient of the facility or in the event of the latter's situation being irreparably compromised.

Failure to comply with these provisions may render the credit institution financially liable.

Paragraph 2
Equity Loans — Articles L313-13 to L313-20

Article L313-13

(Order No. 2001-350 of 19 April 2001 Art. 6 XXVII Official Journal of 22 April 2001)
(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)
(Act No. 2005-882 of 2 August 2005 Art. 11 I Official Journal of 3 August 2005)

The State (without prejudice to Articles L. 313-18 to L. 313-20), credit institutions, commercial companies, public institutions which appear on a list determined in a Conseil d'Etat decree, insurance companies (including mutuals), non-profit-making associations referred to in 5 of Article L. 511-6, mutuals and unions governed by the Mutuality Code and institutions that come under Parts II and III of Book IX of the Social Security Code may grant facilities to handicraft establishments and industrial and commercial companies on their available long-term resources in the form of equity loans governed by Articles L. 313-14 to L. 313-20. The provisions of the present article shall not impede application of the penalties set forth in Part IV of Book II of the Commercial Code.

The granting of an equity loan to a sole trader does not, of itself, form a company between the parties to the contract.

Article L313-14

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)
(Act No. 2005-882 of 2 August 2005 Art. 11 II Official Journal of 3 August 2005)

Equity loans are shown on a special line on the balance sheet of both the entity that grants them and the company that receives them and are also referred to in the appendix provided for in Article L. 123-12 of the Commercial Code.

They are treated as equity capital for the purpose of assessing the financial situation of the companies to which they are granted.

Article L313-15

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)
(Act No. 2005-882 of 2 August 2005 Art. 11 III Official Journal of 3 August 2005)

In the event of a voluntary winding-up or judicial liquidation or administration through the sale of the debtor company, equity loans are not repaid until all other secured and unsecured creditors are paid off in full. Unless otherwise contractually stipulated with the unanimous agreement of all the equity loan holders, the said creditors are given the same priority when distributions are made.

Article L313-16

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

In the event of the debtor company being placed in judicial reorganisation, repayment of the equity loans and payment of interest thereon are suspended throughout the entire term of the reorganisation plan.

Article L313-17

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

(Act No. 2005-882 of 2 August 2005 Art. 11 IV Official Journal of 3 August 2005)

Without prejudice to Articles L. 313-1 to L. 313-6 of the Consumer Code, the fixed interest applied to an equity loan may be increased, if the contract so provides, through the invoking of a participation clause pertaining to the borrower's net profit or the profit realised by the borrower on the use of goods totally or partly financed by the said loan, or to the capital gain realised on the sale thereof or on retrocession of the profit realised.

Where a participation clause exists, it is implemented for natural persons through a preferential deduction from the distributable profits and, for companies, from the distributable profits before any other allocation is made.

In cases in which the approval of a special meeting as indicated in Articles L. 225-99 and L. 228-35-6 of the Commercial Code or a meeting of the general body of creditors pursuant to Article L. 228-103 of that same code is required, the Extraordinary General Meeting approves the said clause. In other cases, it is approved by the partners in the manner stipulated for approval of the accounts.

Article L313-18

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

The granting of equity loans by the Government is contingent upon specific and dated undertakings from the borrower in industrial or commercial as well as financial terms.

If the content or the repayment schedule of the undertakings is not respected, the loan becomes immediately repayable, with the exception of the situation envisaged in Article L. 313-16.

Article L313-19

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

The fixed interest applied to the equity loan is increased, as provided for in the contract, through the invoking of a participation clause relating to the borrower's net profit.

Such participation constitutes a cost for the accounting period.

The annual percentage rate of the interest paid to the Government by the borrower cannot be lower than the average interest rate applied to the current accounts of the partners in the borrowing company.

Article L313-20

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

The amount of each equity loan granted by the Government is published each year.

Paragraph 3
Credit Guarantees for Individual Entrepreneurs — Articles L313-21 to L313-21-1

Article L313-21

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

Whenever a credit institution envisages granting a credit facility to an individual entrepreneur for business purposes and intends to request a charge on property which is not necessary to operate the business, or a personal surety granted by a natural person, it must inform the entrepreneur in writing of his right to propose a guarantee on items that are required to operate the business and to indicate the amount of the guarantee he is seeking, consistent with the amount of the credit facility requested.

In the event of the individual entrepreneur failing to reply within fifteen days or the credit institution refusing the guarantee proposed by the individual entrepreneur, the credit institution shall inform the latter of the exact amount of the guarantees it wishes to obtain on property which is not necessary to operate the business or from any other guarantor. If the entrepreneur disagrees, the credit institution may decide not to make the credit facility available without incurring any liability thereby.

A credit institution which has failed to comply with the formalities stipulated in the first and second paragraphs cannot, in its relations with an individual entrepreneur, avail itself of the guarantees that it would have obtained. If a guarantee is provided on real property or movables giving rise to publication, the credit institution may no longer avail itself of it when the guarantee registration has been deleted.

Article L313-21-1

(inserted by Act No. 2005-842 of 26 July 2005 Art. 18 I Official Journal of 27 July 2005)

Companies selected to contribute to the creation of business or the development of jobs within the framework of an agreement entered into with the Government pursuant to Article L. 321-17 of the Labour Code and companies approved by the Minister for the Economy are authorised to grant partial guarantees in favour of credit institutions granting loans for company development projects located in labour market areas experiencing economic difficulties or showing signs of economic weakness, as are the craft-industry mutual guarantee societies which guarantee such projects.

The implementing regulations for these provisions pertaining to approval and the scope of the guarantees are determined in a Conseil d'Etat decree.

Paragraph 4
Information concerning Guarantees — Article L313-22

Article L313-22

(Order No. 2005-429 of 6 May 2005 Art. 46 Official Journal of 7 May 2005)

Credit institutions which have granted a credit facility to a company subject to a guarantee from a natural person or a legal entity are required, by 31 March each year at the latest, to inform the guarantor of the amount of the principal, interest, commissions, fees and incidental expenses that were outstanding under the guaranteed obligation as of 31 December of the previous year, as well as the term of that commitment. If the commitment is open-ended, they refer to the right to revoke it at any time and the conditions applicable thereto.

Failure to comply with the formality provided for in the previous paragraph entails, in the relations between the guarantor and the institution bound by that formality, forfeiture of the interest due since the previous report and up to the date of presentation of the new information. Payments made by the principal debtor are deemed, in the relations between the guarantor and the institution, to be applied prioritarily to settlement of the principal amount of the debt.

SECTION III
Procedures relating to the Discounting of Receivables — Articles L313-23 to L313-49

Subsection 1
Sale and Pledge of Receivables — Articles L313-23 to L313-29-1

Article L313-23

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any credit which a credit institution grants to a private-law or public-law corporation, or to a natural person for use in connection with his business activities, may give rise to the assignment or pledge by the beneficiary of the credit of any debt which it may hold on a third party private-law or public-law corporation, or natural person if it relates to his business activities, for the benefit of that institution, by simply submitting an advice note.

Cash claims which are due and payable may be assigned or pledged. Debts resulting from a deed which has already been executed, or which is yet to be executed but whose amount and due date are not yet determined, may also be assigned or pledged.

The advice note must include the following elements:

1. The designation "deed of assignment of receivables" or "deed of pledge of receivables", as applicable;
2. An indication to the effect that the document is subject to the provisions of Articles L. 313-23 to L. 313-34;
3. The name of the credit institution which is the beneficiary;
4. The designation or individualisation of the receivables granted or pledged, or of the elements likely to create that designation or that individualisation, particularly by indication of the debtor, the place of payment, the amount of the receivables or of their valuation and, if applicable, their due date.

However, when transmission of the debts assigned or pledged is effected via a computer process which makes it possible to identify them, the advice note may merely indicate, in addition to the elements indicated in 1, 2 and 3 above, the means through which they are transmitted, the number thereof and their global amount.

In the event of a query being raised concerning the existence or transmission of one of the receivables, the assignee may prove, by any means possible, that the receivable to which the query relates is included in the global amount shown on the advice note.

A document from which one of the above indications is missing does not constitute a valid deed of assignment or pledge of receivables within the meaning of Articles L. 313-23 to L. 313-34.

Article L313-24

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Even when it is effected by way of guarantee and without stipulation of a price, the assignment of receivables transfers title to the assigned receivables to the assignee.

Unless otherwise agreed, the signatory of the deed of assignment or the deed of pledge is a jointly and severally liable guarantor of payment of the assigned or pledged receivables.

Article L313-25

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The advice note is signed by the assignor. The signature is affixed either by hand, or by any non-manual process. The advice note may be stipulated to order.

The date is affixed by the assignee.

Article L313-26

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The advice note may only be assigned to another credit institution.

Article L313-27

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 67, Official Journal of 2 August 2003)

The assignment or pledge takes effect between the parties and becomes binding on third parties on the date indicated on the advice note when it is submitted, regardless of the origination date, maturity date or due date of the receivables, without any other formality being necessary, and regardless of the law applicable to receivables and the law

of the country of domicile of the debtors.

From that date onwards, the customer of the credit institution indicated as the beneficiary on the advice note cannot alter the scope of the rights attached to the receivables represented by the advice note without that institution's consent.

Service of the notification shall automatically entail transfer of the sureties, guarantees and accessories attached to each receivable, including the mortgage sureties, and its enforceability against third parties without any other formality being necessary.

In the event of the date indicated on the advice note being challenged, the credit institution may prove the accuracy thereof by any means possible.

Article L313-28

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The credit institution may, at any time, forbid the debtor of the assigned or pledged receivable from making payment to the signatory of the advice note. With effect from such notification, the arrangements for which are determined by the Conseil d'Etat decree referred to in Article L. 313-35, the debtor may only validly settle his debt to the credit institution.

Article L313-29

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The debtor may undertake to pay the beneficiary directly, if the latter so requests: under pain of being declared null and void, that undertaking is recorded in a document entitled: "Deed of acceptance of the assignment or pledge of a business receivable".

In such cases, the debtor cannot raise exceptions against the credit institution founded on his personal relations with the signatory of the advice note unless the credit institution knowingly acted against the debtor's best interests by acquiring or receiving the receivable.

Article L313-29-1

(Order No. 2004-559 of 17 June 2004 Art. 28 Official Journal of 19 June 2004)
(Act No. 2004-806 of 9 August 2004 Art. 153 IV Official Journal of 11 August 2004)

In the event of a receivable held against a public legal person being assigned by the holder of a partnership contract or a contract referred to in the first paragraph of Article L. 6148-5 of the Public Health Code, the said contract may provide for the provisions of Articles L. 313-28 and L. 313-29 not to apply to a portion of the assigned receivable representing a fraction of the investment cost. In such cases, the contract provides for the portion of the receivable referred to above to pass permanently to the assignee after the contracting public legal person has verified that the investments were made, without being affected by any compensation. The contract holder is required to settle any debts it might owe to the contracting public legal person on account of any non-fulfilment of its contractual obligations and, inter alia, any penalties imposed on it; a stop placed an enforceable order issued by the public legal person does not have suspensive effect in respect of the amount which was covered by the guarantee in favour of the assignee.

Subsection 2
Discounting of Loans by the Assignee or the Pledgee — Articles L313-30 to L313-49

Paragraph 1
General Provisions — Articles L313-30 to L313-35

Article L313-30

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A credit institution which is the assignee or pledgee of receivables as provided for in Article L. 313-23 may, at any time, issue securities intended to capitalise some or all of the loans granted.

The successive bearers of those securities benefit from the rights enumerated in Articles L. 313-31 to L. 313-33 subject to the advice notes having been made available to the institution providing the financing pursuant to the agreements it has entered into with the credit institution.

Article L313-31

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Short-term credit transactions which have not given rise to an assignment or a pledge of receivables in favour of the credit institution may result in the issuing by that institution of securities intended to capitalise some or all of the loans granted.

The successive bearers of those securities benefit from the rights enumerated in Articles L. 313-32 and L. 313-33 subject to the advice notes recording those transactions having been made available to the institution providing the financing pursuant to the agreements it has entered into with the credit institution; those advice notes, known as "deeds of assignment of financial receivables", are subject, insofar as this applies, to the provisions of Articles L. 313-23 to L. 313-29.

Article L313-32

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The successive bearers of the securities created by a credit institution pursuant to Articles L. 313-30 and L. 313-31 benefit from the rights relating to endorsement referred to in Articles L. 511-8 to L. 511-14 of the Commercial Code.

Article L313-33

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rights attached to capitalisation securities apply to all the receivables indicated on the advice notes; they also apply to all interest and ancillary charges, as well as the guarantees associated with those receivables.

Article L313-34

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

With effect from submission of the advice notes to the financing institution, and throughout the entire term thereof, the credit institution cannot, unless otherwise stipulated, assign the receivables represented by the advice notes in any form whatsoever.

Article L313-35

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree determines the implementing regulations for Articles L. 313-23 to L. 313-34.

Paragraph 2
Refinancing of Medium-Term Loans — Articles L313-36 to L313-41

Article L313-36

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Medium-term loans granted by a credit institution which are, at least in part, the subject of a rediscounting agreement of the Issuing Institution may give rise to the signing, by the borrower, of contracts which determine the amount of the loans and the conditions of their use and amortisation, and also, where applicable, the signing of bills having various due dates.

Article L313-37

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When the credit institutions which have granted the loans referred to in Article L. 313-36 issue securities in order to refinance some or all of those loans, the bearers of those securities benefit from the rights enumerated in Article L. 313-38 provided that the contracts or bills have been made available to the institution which is handling the rediscounting, pursuant to the agreements entered into by that institution and the credit institution.

Article L313-38

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The bearers of securities created by credit institutions benefit from the rights referred to in Articles L. 511-8 to L. 511-14 of the Commercial Code relating to endorsement.

Their right relates to all receivables deriving for the benefit of the credit institution from the contracts entered into or the bills subscribed to make the advances; it also relates to all interest and ancillary charges as well as the guarantees associated with those advances, even if they derive from deeds distinct from the contracts or bills.

Such right is exercised preferentially and with equality of rank by the holders of the capitalisation securities created for the benefit of the institution which handles the rediscounting of the advances granted.

Article L313-39

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The contracts referred to in Article L. 313-36, which benefit from the same advantages as the bills for which they are substituted, cannot give rise to a stop order.

Article L313-40

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Once the contracts or bills are made available to the rediscounting institution, and while they remain available to it, the credit institution which holds the receivables referred to in Article L. 313-38 cannot, unless otherwise provided for in the agreements referred to in Article L. 313-37, assign those receivables in any form whatsoever.

Article L313-41

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The contracts or bills representing the loans must refer to Articles L. 313-36 to L. 313-41, as well as the capitalisation securities, under pain of the bearer being deprived of the right referred to in Article L. 313-38.

Paragraph 3
Refinancing of Mortgages and Other Secured Loans — Articles L313-42 to L313-49

Article L313-42

(Order No. 2005-429 of 6 May 2005 Art. 47 Official Journal of 7 May 2005)

The provisions of the present paragraph apply to the promissory notes issued by credit institutions to refinance long-term receivables used to finance real property located in France or another European Economic Area Member State which are guaranteed by:

- a first-ranking mortgage or a charge over real property which provides a guarantee at least equal thereto;

- or a guarantee granted by a credit institution or an insurance company which is not included in the consolidation described in Article L. 233-16 of the Commercial Code which the credit institution issuing the promissory note is subject to.

The units or debt instruments of securitisation funds are treated in the same way as the receivables referred to above if at least 90% of the fund's assets consist of receivables of the same type, with the exception of specific units or debt instruments issued to cover the risk of insolvency of the debtors.

With effect from 1 January 2002, receivables represented by promissory notes must comply with the conditions laid down in I of Article L. 515-14 pursuant to terms determined by a Conseil d'Etat decree. The said decree specifies the circumstances in which the quota may be exceeded if the amount of the said receivables exceeds that of the promissory notes that they guarantee.

Article L313-43

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Since the contracts constitute the said loans and their guarantees, amendments made to the contracts to provide the lender with additional guarantees, and instruments signed by the borrower to ensure compliance with his obligations, if such instruments exist, must be made available to the bearer of the promissory note by the credit institution, if the bearer so requests, in a capital amount equal to the capital amount of the promissory note.

The credit institution provides safekeeping for the contracts and instruments made available to the bearers of the promissory notes by maintaining a nominal list of the bearers of all receivables corresponding to the aforementioned contracts and instruments, making a reference therein to Articles L. 313-42 to L. 313-49, and providing an updated indication of their amount.

Article L313-44

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - Barring the application of Article L. 313-46, the credit institution recovers, pro tanto, free disposal of the receivables referred to in Article L. 313-43 as and when they become due or redeemable, or when it so chooses. It is required, while the promissory note remains in circulation, to replace the contracts and bills it recovers free disposal of, without discontinuity, with other debt instruments having a capital amount equal to those made available to the bearer of the promissory note as provided for in Article L. 313-43.

II. - Debt instruments made available to the bearer of the promissory note pursuant to I are automatically substituted, through real subrogation, for the debt instruments which the credit institution recovers free disposal of. Such substitution preserves the rights of the bearer of the promissory note and entails the effects set forth in Article L. 313-45, even if the signing of the new debt instruments made available to that bearer is subsequent to the signing of the promissory note.

Article L313-45

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Making receivables and bills available to the bearer of the promissory note automatically entails creation of a pledge in favour of the successive bearers.

The bearer of the promissory note's right encompasses all receivables deriving for the benefit of the credit institution from the contracts and bills which have been made available to that bearer pursuant to the present paragraph, without any other formality. It also encompasses all interest and ancillary charges, as well as any guarantees associated with those advances, even if they derive from deeds distinct from the contracts or bills.

The bearer of the promissory note exercises that right preferentially in relation to the credit institution and, in the event of a single receivable being shared between several bearers of promissory notes, those bearers enjoy equality of rank.

While the receivables and bills remain available to the bearer of the promissory note, the credit institution cannot transfer those receivables or bills in any form whatsoever.

Article L313-46

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

If the amount of the promissory note or the interest attached to it are not paid when due, and regardless of the remedies he might exercise against the credit institution, the bearer of the promissory note may obtain, upon request and in return for the said note, submission of the nominal list of the holders referred to in Article L. 313-43 and also, if applicable, of the instruments made available to him pursuant to the present paragraph. Such submission transfers title of the receivables to him without any other formality, and with the interest, advantages and guarantees attaching thereto, within the limits of the rights he holds on account of the promissory note he held.

Article L313-47

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

For deletion of registrations, no documentary proof is required to support the statements in the act of discharge which establishes that the instruments have been made available or handed over if the said statements are certified as accurate in that act. The beneficiaries of such availability or delivery are not considered to be interested parties within the meaning of Article 2157 of the Civil Code if the act of discharge does not refer to the transaction concluded in their favour.

Article L313-48

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In order to guarantee payment when due of the amount of the promissory note referred to in Article L. 313-42, or the amount of the interest attached to that note, the bearer of that note may ask the credit institution to make contracts available to it which constitute long-term receivables, along with their guarantees, to be added to those already made available by virtue of Article L. 313-43, for an agreed amount, given that those contracts may give rise to the creation of promissory notes having the characteristics of those referred to in Article L. 313-42.

The contracts thus made available to the bearer to guarantee a note referred to in Article L. 313-42 are indicated to that bearer at the same time as the availability of the contracts, pursuant to the procedure described in Articles L. 313-43 and L. 313-44.

The effects of that availability by way of guarantee are described in Articles L. 313-45 to L. 313-47.

Articles L. 313-44 to L. 313-46 are applicable notwithstanding any provision to the contrary, including those of Book VI of the Commercial Code. These provisions apply to capitalisations effected before 29 June 1999 pursuant to the provisions of the present paragraph.

Article L313-49

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Banking Commission is responsible for ensuring that the credit institutions comply with the provisions of Articles L. 313-42 to L. 313-48.

SECTION IV

Surety Guarantees — Articles L313-50 to L313-51

Article L313-50

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - A surety guarantee mechanism has been established whose purpose, in the event of a credit institution becoming insolvent, is to meet the guarantee commitments required by a legislative or regulatory text which that institution has made for the benefit of natural persons or private-law legal entities. Credit institutions whose authorisation in France allows such guarantees to be provided belong to that mechanism.

II. - The Deposit Guarantee Fund administers the surety guarantee mechanism. Articles L. 312-5 to L. 312-15, L. 312-17 and L. 312-18 apply to that mechanism. Moreover, the Deposit Guarantee Fund is subrogated in the rights and obligations resulting from the commitments made by the credit institution and met by the fund, within the limits of the amounts actually paid.

III. - The surety guarantee mechanism is implemented at the request of the Banking Commission whenever it establishes that a credit institution is no longer able, immediately or in the near future, to meet the guarantee commitments, as described in I, that it has made. When applicable, the surety guarantee mechanism acts jointly with the Deposit Guarantee Fund when the latter is called upon by virtue of the first paragraph of Article L. 312-5.

IV. - As a precaution, and on a proposal from the Banking Commission, the surety guarantee mechanism may also act, independently or jointly with the Deposit Guarantee Fund, as provided for in Article L. 312-5.

A decree determines the list of compulsory guarantees covered by the surety guarantee mechanism and defines the publication requirements for the guarantee provided.

Article L313-51

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 2, Official Journal of 2 August 2003)

An order of the Minister for the Economy specifies, inter alia:

1. The terms of compensation;

2. The global amount of, and distribution procedure for, the annual contributions payable to the mechanism by the member institutions, taking due account of objective indicators of the financial situation of each of those institutions;

3. The circumstances in which a portion of those contributions does not have to be paid to the guarantee mechanism if appropriate guarantees are provided.

The contributions made by the affiliated institutions to one of the central bodies referred to in Article L. 511-30 are paid directly to the guarantee fund by that central body.

In the circumstances and under the terms set forth in Article L. 313-50 and the present article, the surety guarantee mechanism is retroactively liable for the guarantee commitments required by a legislative or regulatory text which were made by any credit institution placed in judicial reorganisation after 1 January 1996 and which has been unable to fully meet those commitments.

In applying these provisions, the Deposit Guarantee Fund assumes, once approval is obtained from the chairman of its Executive Board, the financial charge of those guarantee commitments on behalf of the surety guarantee mechanism until the first call is made for the contributions allocated to that mechanism. The charge borne due to the involvement of the Deposit Guarantee Fund is then charged to the surety guarantee mechanism.

Notwithstanding the provisions of Article L. 621-46 of the Commercial Code, the sums thus paid by the guarantee mechanism confer on the guarantee fund a right to a distribution of dividend which is identical to that of the other unsecured creditors eligible for that dividend.

Part II

CHAPTER I
General Provisions Articles L321-1 to L321-3

Article L321-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment services relate to the financial instruments enumerated in Article L. 211-1 and include:

1. Receipt and transmission of orders on behalf of third parties;
2. Execution of orders on behalf of third parties;
3. Own-account trading;
4. Portfolio management on behalf of third parties;
5. Underwriting;
6. Investment.

Services rendered to the Government and to the Bank of France within the framework of the currency-management, exchange-rate, public-debt and State reserves policies are not subject to the provisions of the present Code that apply to investment services referred to in the present article.

Article L321-2
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Article 91 2, Official Journal of 2 August 2003)

Services related to investment services include:

1. The custody or administration of financial instruments;
2. The granting of credits or loans to an investor to enable him to carry out a transaction relating to a financial instrument in which the company granting the credit or loan participates;
3. Asset management consultancy;
4. Consultancy services provided to companies in relation to capital structure, industrial strategy and associated questions, as well as services relating to mergers and acquisitions;
5. Services associated with underwriting;
6. Exchange-rate services when they are associated with the provision of investment services;
7. Renting of safes;
8. Trading in the underlying commodities of instruments referred to in 4/II of Article L. 211-1, when it is associated with the performance of those contracts.

The conditions in which the transactions referred to in 2 are carried out by investment firms are determined by the Minister for the Economy.

Article L321-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The services enumerated in Articles L. 321-1 and L. 321-2 are provided pursuant to the terms and conditions indicated in Books V and VI.

CHAPTER II
Investors' Guarantee Articles L322-1 to L322-4

Article L322-1
(Act No. 2003-706 of 1 August 2003 Art. 69 Official Journal of 2 August 2003)
(Order No. 2004-482 of 3 June 2004 Art. 1 Official Journal of 5 June 2004)

With the exception of portfolio management companies approved in France, intermediaries authorised by the Credit institutions and Investment Firms Committee to provide clearing services or custody and administration services for financial instruments belong to a securities guarantee mechanism. The purpose of this mechanism is to compensate investors in the event of their financial instruments or their cash deposits being unavailable when they are linked to an investment service, to clearing or to financial instrument custody and do not come within the scope of the Deposit Guarantee Fund instituted by Article L. 312-4. Persons and Funds excluded from compensation by Article L. 312-4 cannot benefit from the guarantee mechanism.

Article L322-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000 JORF amendment 17 March 2001)

Without prejudice to the provisions set forth below, the Deposit Guarantee Fund administers the securities guarantee mechanism. Articles L. 312-5 to L. 312-15, L. 312-17 and L. 312-18 apply to that mechanism. For application of the first paragraph of Article L. 312-5, the securities guarantee mechanism is implemented at the request of the Banking Commission after the opinion of the Financial Markets Council has been sought, and as soon as the Banking Commission establishes that one of the institutions referred to in Article L. 322-1 is no longer able to return, immediately or in the near future, the financial instruments or deposits it has received from the public pursuant to the legislative,

regulatory or contractual conditions applicable to their return. The guarantee fund's intervention gives rise to the exclusion of that member. For the persons referred to in Article L. 532-18 and Articles L. 511-22 and L. 511-23, such exclusion is deemed to constitute a prohibition on that member continuing to provide its services in France.

On a proposal from the Banking Commission, and after seeking the opinion of the Financial Markets Council, the securities guarantee mechanism may also take precautionary measures when a member's situation gives grounds for fearing that the deposits or financial instruments it has received from the public might not be available when due, given the level of support available to it. When the guarantee fund agrees to such an implementation as a precaution, it first seeks the opinion of the Banking Commission and the Financial Markets Council and then determines the terms of that intervention. It may, inter alia, make it subject to the total or partial sale of the company concerned or the cessation of its business, particularly through the sale of its assets. It may also acquire the shares of a member institution.

Article L322-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 2, Official Journal of 2 August 2003)

An order of the Minister for the Economy, issued on the advice of the Financial Markets Council, determines:

1. The ceiling for compensation per investor, the terms and conditions of compensation and the arrangements for payment thereof, and the rules relating to the provision of information to the customers;

2. The particulars of the membership certificates, and the terms and conditions of their yield and redemption in the event of withdrawal of authorisation, after application, if applicable, of any losses incurred by the mechanism;

3. The global amount of, and distribution procedure for, the annual contributions payable by the institutions referred to in Article L. 322-1 the basis of which consists of the value of the deposits and financial instruments which are covered by the guarantee by virtue of Article L. 322-1 weighted by the contributions already paid and by indicators of the financial situation of each of the institutions concerned, reflecting the objective risks to which that member exposes the fund;

4. The circumstances in which a portion of those contributions does not need to be paid to the guarantee fund if appropriate guarantees are provided.

The contributions due from the affiliated institutions to one of the central bodies referred to in Article L. 511-30 are directly paid to the guarantee fund by that central body.

Article L322-4

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 2 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 6 Official Journal of 7 May 2005)

Two members representing the members of the securities guarantee mechanism which are not credit institutions participate in the Supervisory Board of the Deposit Guarantee Fund with the right of discussion and vote, except when that fund takes decisions concerning the guaranteeing of deposits. In this latter case, the financial contributions used to count the votes pursuant to Article L. 312-11 are those that are called by virtue of Article L. 322-3. The order of the Minister for the Economy referred to in Article L. 322-3 determines the terms and conditions of appointment of those two representatives and the term of their remit.

The two representatives referred to in the previous paragraph are subject to the incapacities referred to in Article L. 500-1.

Part III

Interbank Settlement Systems and Settlement-Delivery Systems for Financial Instruments — Articles L330-1 to L330-2

Article L330-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 30 I, Official Journal of 16 May 2001)

I. - An interbank settlement system or settlement-delivery system for financial instruments consists of a national or international procedure which organises relations between at least two parties having the status of a credit institution, an institution or company referred to in Article L. 518-1, an investment firm or a member of a clearing house or a non-resident institution having comparable status, which allows regular execution of payments, through clearing or otherwise, and, for settlement-delivery systems for financial instruments, the delivery of securities between the said participants.

Without prejudice to the provisions of 4 of IV of Article L. 622-7, the system must either have been instituted by a public authority, or be governed by a framework agreement which respects the general principles of a market framework agreement or a model agreement. The Minister for the Economy sends the European Commission a list of the systems which benefit from the provisions of the present Part.

When judicial reorganisation or liquidation proceedings are instituted against a participant in an interbank settlement system or a settlement-delivery system for financial instruments of the European Economic Area, the rights and obligations deriving from its participation or linked to its participation in the said system are determined by the law which governs the system, as long as that law is the law of a European Economic Area Member State.

II. - Notwithstanding any legislative provision to the contrary, payments and deliveries of financial instruments made within the framework of interbank payment systems or settlement-delivery systems for financial instruments cannot be cancelled in the event of an order to commence judicial reorganisation or liquidation proceedings being made against an institution participating directly or indirectly in such a system until the close of the day on which that order is made, even on the grounds of such an order being made.

III. - These provisions are also applicable to payment instructions and delivery instructions for financial instruments, given that they have acquired irrevocable status in one of the systems referred to in II. The time and conditions that determine whether an instruction is considered irrevocable in a system are defined by that system's operating rules.

Article L330-2

(Act No. 2001-420 of 15 May 2001 Art. 30 II Official Journal of 16 May 2001)
(Order No. 2005-171 of 24 February 2005 Art. 4 Official Journal of 25 February 2005)

I. - The operating rules, the framework agreement or the model agreement governing any system referred to in Article L. 330-1 may, when they organise the relations between more than two parties, require that the institutions participating directly or indirectly in such systems furnish guarantees which are enforceable as provided for in Article L. 431-7-3 or make a special transfer of securities, certificates, bills, receivables or sums of money to meet the payment obligations deriving from participation in such a system.

II. - The operating rules, the framework agreement or the model agreement stipulate the arrangements for the establishment, allocation, enforcement and use of the property or rights provided by way of guarantee.

III. - The provisions of Book VI of the Commercial Code or the equivalent provisions governing any judicial or amicable proceedings instituted outside France and any civil enforcement proceedings or exercise of a right to object shall not impede application of the present Part.

IV. - When financial instruments, bills, receivables, sums of money or any similar instrument issued on the basis of a foreign legal system are recorded in a register, an account or with a central custodian or system governed by a foreign legal system, or with a centralised depositary located in a European Economic Area Member State, and are provided or used as a guarantee to meet payment obligations deriving from participation in an interbank payment system or settlement-delivery system for financial instruments, as described in Article L. 330-1, the rights of the recipient of the said guarantee are determined by the law applicable at the place of such registration.

Article L341-1

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Any unsolicited contact made, through whatever means, with a given natural person or legal entity with a view to obtaining agreement as indicated below constitutes an act of canvassing for banking or financial services:

1 Execution by a person referred to in 1 of Article L. 341-3 of a transaction on a financial instrument enumerated in Article L. 211-1;

2 Execution by a person referred to in 1 of Article L. 341-3 of a banking transaction or related transaction described in Articles L. 311-1 and L. 311-2;

3 Provision by a person referred to in 1 of Article L. 341-3 of an investment service or a related service described in Articles L. 321-1 and L. 321-2;

4 Execution of a transaction on miscellaneous property referred to in Article L. 550-1;

5 Provision by a person referred to in 3 of Article L. 341-3 of an investment consultancy service referred to in I of Article L. 541-1.

The fact of physically calling on persons for the same purposes at their domicile, their place of work or a place not intended for the marketing of financial products, instruments and services also constitutes an act of canvassing for banking or financial services, whoever initiates the approach.

The fact of physically calling on persons for the same purposes at their domicile, their place of work or a place not intended for the marketing of financial products, instruments and services also constitutes an act of canvassing for banking or financial services, whoever initiates the approach.

Canvassing for banking or financial services is conducted without prejudice to application of the specific provisions relating to the provision of investment services, the carrying out of banking transactions and the execution of transactions relating to miscellaneous property, as well as the provisions of Article 66-4 of Act No. 71-1130 of 31 December 1971 reforming certain judicial and legal professions.

Article L341-2

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Act No. 2004-804 of 9 August 2004 Art. 4 Official Journal of 11 August 2004)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)
(Order No. 2005-1527 of 8 December 2005 Art. 37 Official Journal of 9 December 005 effective 1 July 2007)

The rules concerning canvassing for banking or financial services do not apply:

1 To contacts made with qualified investors as defined in Article L. 411-2 and with legal entities whose balance-sheet total, turnover, amount of assets managed, income or staff are above a threshold set by decree;

2 To contacts made on the premises of the persons referred to in Article L. 341-3, except when those persons are contractually bound, in regard to the marketing of financial instruments and savings products, to companies exploiting superstores of the types referred to in Article L. 720-5 of the Commercial Code and Article 36-1 of Act No. 73-1193 of 27 December 1973 relating to commerce and the craft industries, when their premises are located on the premises of those stores;

3 To approaches made on the business premises of a legal entity at that entity's request;

4 To contacts made with legal entities, when they relate exclusively to the services referred to in 4 of Article L. 321-2;

5 When the person approached is already a customer of the person on behalf of whom the contact is made, provided that the proposed transaction, in terms of its characteristics and the risks or amounts involved, is similar to the transactions usually carried out by that person;

6 Approaches made on behalf of a credit institution with a view to proposing a financing contract for goods or services which meets the conditions laid down in Section 5 of Chapter I of Part I of Book III of the Consumer Code, or a hire purchase contract or a lease with option to purchase referred to in Article L. 311-2 of the said Code. The same applies when such contracts are specifically geared to the requirements of a business activity;

7 Without prejudice to the provisions of 6 above, to approaches made on behalf of a credit institution with a view to proposing financing for hire purchase agreements for natural persons or legal entities, other than those referred to in 1, on condition that the name of the credit institution and the cost of the credit are indicated, failing which they shall be null and void;

8 To approaches made at the place of sale, on behalf of a credit institution, with a view to proposing loans as indicated in Part I of Book III of the Consumer Code.

NB: Order No. 2005-1527 of 8 December 2005 Art. 41: The present Order shall enter into force on dates determined in a Conseil d'Etat decree and by 1 July 2007 at the latest.

SECTION II
Persons Authorised to Canvass

Articles L341-3 to L341-9

Article L341-3

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

The following legal entities and natural persons only are permitted to commission or undertake canvassing for banking or financial services, within the scope of the specific provisions which govern them:

1 The credit institutions described in Article L. 511-1, the institutions referred to in Article L. 518-1, the investment firms and the insurance companies indicated respectively in Article L. 531-4 of the present code and in Article L. 310-1 of the Insurance Code, the venture capital companies referred to in Article 1-1 of Act No. 85-695 of 11 July 1985 containing various provisions of an economic and financial nature, in relation to subscriptions to the securities they issue, as well as the equivalent institutions and companies approved in another European Community Member State and authorised to trade in France;

2 Companies, in the context of the schemes governed by Part IV of Book IV of the Labour Code which they offer to the beneficiaries, and also the legal entities they commission to offer such schemes negotiated by the company. In such cases, and without prejudice to the rules of reporting and marketing to which they are subject, only the provisions of Article L. 341-9, of 3 of Article L. 353-2 (1) and of Article L. 353-4 of the present code are applicable to such canvassing activities;

3 Financial investment advisors, as described in Article L. 541-1, solely for the services referred to in 5 of Article L. 341-1.

NB: 3 of Article L. 353-2 of the Monetary and Financial Code was repealed by Article 7 II of Order No. 2005-429 of 6 May 2005.

Article L341-4

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 48 Official Journal of 7 May 2005)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

I. - The persons and legal entities referred to in Article L. 341-3 may commission natural persons to carry out canvassing for banking or financial services on their behalf. The institutions and companies referred to in 1 of that article may also commission legal entities for that purpose. In which case, those entities may, in turn, commission natural persons to carry out that activity on their behalf.

II. - In all cases, appointments are by name. The remit indicates the nature of the products and services to which it relates and the circumstances in which the canvassing activity may be carried out. Its term is limited to two years. It may be renewed.

A single natural person or legal entity may accept remits from several institutions or companies within the meaning of 1 of Article L. 341-3. That person/entity shall inform all the principals of the remits thus held.

III. - The legal entities referred to in Article L. 341-3 and those commissioned pursuant to I of the present article are

legally liable for the actions of the canvassers, acting in that capacity, whom they have appointed. The legal entities referred to in Article L. 341-3 remain liable for the actions of the employees of the legal entities they have appointed, within the scope of their remit.

IV. - Natural persons who are canvassers and those empowered to manage or administer legal entities commissioned pursuant to I must meet conditions determined by decree regarding their age, respectability and professional competence. The same applies to employees of the persons referred to in Article L. 341-3 when they carry out canvassing activities, and those of legal entities commissioned pursuant to I of the present article.

V. - The rules laid down in II and IV do not apply to natural persons participating in the sending of documents to named individuals, provided that they have no personalised contact which would enable them to influence the choice of the person canvassed. In which case, the legal entities referred to in Article L. 341-3 or commissioned pursuant to I are considered to be directly performing the canvassing activity and are required to apply the relevant rules.

Article L341-5

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Any natural person or legal entity commissioned to perform canvassing activities for banking or financial services must be able, at all times, to prove the existence of an insurance policy covering him against the financial consequences of his professional civil liability in the event of a breach of his professional obligations as specified in the present Chapter.

The minimal level of the cover which must be provided by the professional civil liability insurance is determined by decree consistent with the circumstances in which the business is conducted, with particular reference to the number of remits in force and the products and services that are canvassed for.

Article L341-6

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

The persons and legal entities referred to in Article L. 341-3 and those commissioned pursuant to I of Article L. 341-4, depending, respectively, on their nature or the nature of their principal, arrange for their employees and the other persons they have appointed to carry out canvassing for banking or financial services on their behalf to be registered as canvassers with the Financial Markets Authority, the Credit Institutions and Investment Firms Committee and the Insurance Companies Committee. These provisions apply to natural persons who are financial investment advisors when they are commissioned by one of the persons or legal entities referred to in Article L. 341-3 or those commissioned pursuant to I of Article L. 341-4.

The legal entities referred to in 1 of Article L. 341-3 are not subject to the provisions of the previous paragraph in respect of their employees who do not carry out any canvassing activity which involves the physical presence of the canvasser at the domicile of the persons canvassed, at their place of work or at a place not intended for the marketing of financial products, instruments and services. When so requested by the persons canvassed, such legal entities must at all times be able to prove that the persons who carry out canvassing activities on their behalf are their employees.

When a natural person who is an employee or is commissioned carries out canvassing activities for several legal entities within the meaning of Article L. 341-3, each of those legal entities is required to register that canvasser with the authorities referred to in the first paragraph.

The authority required to effect registration as determined in the first and third paragraphs allocates a registration number to each canvasser. That registration number must be given by the canvasser to all persons canvassed and must be shown on all documents distributed by the canvassers.

The legal entities referred to in Article L. 341-3 and the persons commissioned pursuant to I of Article L. 341-4 are required to ensure that all employees or commissioned persons whom they authorise to carry out canvassing activities for banking or financial services on their behalf, on the basis of the information that they provide, meet the conditions laid down in Article L. 341-9 and, in the case of commissioned persons, Articles L. 341-4 and L. 341-5.

Legal entities which have had the employees or commissioned persons whom they authorise to carry out canvassing activities for banking or financial services on their behalf registered as canvassers must, if the persons thus registered no longer meet the conditions of registration, duly inform the authority with which they were registered.

Article L341-7

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

A file of the persons authorised to carry out canvassing for banking or financial services is held jointly by the Financial Markets Authority, the Credit Institutions and Investment Firms Committee and the Insurance Companies Committee, as determined by decree after consultation with the National Commission for Information Technology and Freedom of Information. It is freely available for consultation by the public.

Article L341-8

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Any person who, when carrying out canvassing activities for banking or financial services, is physically present at the domicile of the persons canvassed, at their place of work or at a place not intended for the marketing of financial products, instruments and services must be the holder of a canvassing card issued by the person for whom he is acting, based on a model determined by order of the Minister for the Economy.

The card must be presented to all persons thus canvassed.

Article L341-9

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 7 I Official Journal of 7 May 2005)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Persons carrying out canvassing activities for banking and financial services are subject to the incapacities referred to in Article L. 500-1.

SECTION III

Products in respect of which Canvassing is Prohibited — Article L341-10

Article L341-10

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Without prejudice to the specific rules applicable to canvassing for certain products, the following products cannot be canvassed for:

1 Products whose maximum risk is not known at the time of subscription or whose risk of loss is greater than the amount of the initial financial contribution, with the exception of:

- units of real-property investment partnerships. When two years have elapsed since the enactment of Act No. 2003-706 of 1 August 2003 relating to financial security, only the units of real-property investment partnerships whose articles of association provide for limitation of each partner's liability to the amount of his share in the capital may be canvassed for;
- products which form part of a normal hedging operation, provided that such products are only offered to legal entities;

2 Products in respect of which marketing in France is not authorised pursuant to Article L. 151-2;

3 Products that come within the scope of Articles L. 214-42 and L. 214-43;

4 Financial instruments which are not admitted to trading on the regulated markets described in Articles L. 421-1 and L. 422-1 or on the recognised foreign markets indicated in Article L. 423-1, with the exception of the units or shares of undertakings for collective investment in transferable securities, financial instruments which are the subject of a public offering under the conditions laid down in Part I of Book IV of the present code, securities issued by the venture capital companies referred to in Article 1-1 of the aforementioned Act No. 85-695 of 11 July 1985 and products offered under a scheme governed by Part IV of Book IV of the Labour Code.

SECTION IV

Rules of Good Conduct — Articles L341-11 to L341-16

Article L341-11

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Before offering financial instruments, an investment service or associated services, canvassers must inquire about the financial situation of the person canvassed and his experience and objectives in terms of investment or financing. These provisions do not apply to mailings carried out as provided for in V of Article L. 341-4, without prejudice to compliance with the duty of information and advice owed to subscribers and customers pursuant to Articles L. 214-12, L. 214-83-1 and L. 533-4.

The canvassers shall provide the person canvassed with clear and understandable information to enable him to make his decision.

Article L341-12

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

In good time, and before he is contractually committed, the person canvassed shall receive information as stipulated in a Conseil d'Etat decree, which shall include the following:

1 The name, business address and, if applicable, the registration number of the natural person doing the canvassing;

2 The name and address of the legal entity/entities on behalf of whom the canvassing is carried out;

3 The registration number of the legal entity commissioned pursuant to I of Article L. 341-4, if the canvassing is carried out on behalf of such an entity;

4 The specific information documents relating to the products, financial instruments and services offered as determined by the laws and regulations in force or, in the absence of such documents, a prospectus on each of the products, financial instruments and services offered, drafted under the responsibility of the person or institution commissioning the canvassing and indicating the specific risks, if any, that the products offered might entail;

5 The terms of the contractual proposal, including the total cost actually payable by the person canvassed, or, if an exact cost cannot be indicated, the basis of calculation of the cost, to enable the person canvassed to verify it, and the terms and conditions under which the contract will be entered into, including the place and date of its signing;

6 Information relating to the existence or otherwise of the right to withdraw provided for in Article L. 121-20-15 of the

Consumer Code or Article L. 341-16 of the present code, as well as the procedure for exercising it.

7 The law applicable to the pre-contractual relations and the contract, and the existence of any jurisdictional clause.

The information concerning contractual obligations supplied to the person canvassed by the service provider shall comply with the law applicable to any contract entered into.

This information, whose commercial nature must be evident, shall be conveyed clearly and comprehensibly by any means compatible with the remote communication method used.

The Conseil d'Etat decree referred to in the first paragraph also determines the specific arrangements applicable when communication is via voice telephony.

These provisions are applicable without prejudice to application of the legal and regulatory obligations specific to each product, financial instrument or service offered.

Article L341-13

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

The canvasser is prohibited from offering products, financial instruments or services other than those in respect of which he has received express instructions from the person(s) for whom he is acting.

Article L341-14

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

A contract relating to the provision of an investment service or a related service, the execution of a financial-instrument transaction, a banking transaction or a related transaction, or a transaction relating to miscellaneous property is entered into between the person canvassed and the institution, company or legal entity authorised to execute such transactions, and the canvasser is not authorised to sign it in the name and on behalf of the person for whom he is acting.

Article L341-15

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

All canvassers are prohibited from receiving cash, negotiable debt instruments, securities, bearer cheques or cheques made out to them, or payment in any other form, from the persons canvassed.

Article L341-16

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

I. - With effect from execution of the contract, the person canvassed has a period of fourteen days in which to withdraw, without penalty and without being required to give a reason for his decision. The said period runs from the date of receipt, by the person canvassed, of the contract signed by both parties.

The contract must include a form designed to facilitate exercise of the right to withdraw. The wording which must appear on that form and the conditions applicable to exercise of the right to withdraw are determined by decree.

II. - The person canvassed shall not be required to pay fees or commissions of any kind when he exercises his right to withdraw. He is nevertheless required to pay the price corresponding to his use of the product or service provided between the date of execution of the contract and the date on which he exercises his right to withdraw.

The execution of contracts relating to custody or administration services for financial instruments and portfolio management for third parties is deferred while the right to withdraw remains effective.

III. - The cooling-off period provided for in the first paragraph of I does not apply to:

1 The receipt-transmission and order-processing services provided for third parties referred to in Article L. 321-1, or the provision of financial instruments referred to in Article L. 211-1;

2 When provisions specific to certain products and services provide for a grace period or cooling-off period of a different duration, in which case it is those periods which apply in regard to canvassing.

IV. - In the event of canvassing being carried out pursuant to the terms specified in the seventh paragraph of Article L. 341-1, the persons referred to in Articles L. 341-3 and L. 341-4 cannot collect orders or funds from persons canvassed with a view to providing receipt-transmission and order-processing services on behalf of third parties referred to in Article L. 321-1 or for the financial instruments referred to in Article L. 211-1 until a forty-eight-hour grace period has expired.

The said grace period runs from the day following receipt of written confirmation, on paper, that the information and documents referred to in Article L. 341-12 have been delivered to the person canvassed.

The absence of a reply from the person canvassed after expiry of the grace period shall not be deemed to constitute consent from that person.

V. - Time limits set in the present section which would normally expire on a Saturday, a Sunday or a public holiday are extended until the next business day.

SECTION V
Disciplinary Sanctions — Article L341-17

Article L341-17

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Any breach of the laws, regulations or professional obligations applicable to canvassing for banking or financial services committed by the persons referred to in 1 and 3 of Article L. 341-3 and in Article L. 341-4 is punished as determined in Articles L. 613-21, L. 621-15 and L. 621-17 of the present code and Article L. 310-18 of the Insurance Code, consistent with their status or their activities.

Article L342-1

(Act No. 2003-706 of 1 August 2003 Art. 50 II 1 Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Hawking and canvassing with a view to selling, purchasing or exchanging gold in the form of ingots, bars, foreign currencies or demonetised gold metallic coins is prohibited.

Whoever goes to the domicile of private individuals, other than bankers, brokers and traders in precious metals, or to public places not designated for such use, to sell or to purchase the aforementioned items, with immediate delivery and payment, in whole or in part, for cash or for securities, is engaged in hawking.

Article L342-2

(Finance Act No. 2001-1275 of 28 December 2001 Art. 78 I b) for 2002 Official Journal of 29 December 2001)
(Act No. 2003-706 of 1 August 2003 Art. 50 II 1, 2 Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

I. - Whoever habitually goes to the domicile of private individuals, other than bankers, brokers and traders in precious metals, or to public places not designated for such use, to offer advice on the purchase, sale or exchange of the items referred to in the first paragraph of Article L. 342-1, or to offer participation in forward transactions involving those same items, or in syndicates that carry out transactions based on price differentials relating to those items, is engaged in canvassing.

II. - Offers of services habitually made by letter, circular, telephone or any other means at the domicile of persons other than bankers, brokers and traders in precious metals, or in public places not designated for such use, with a view to executing transactions referred to in I, are also considered to be acts of canvassing prohibited by Article L. 342-1.

Article L342-3

(Act No. 2003-706 of 1 August 2003 Art. 50 II 1 Official Journal of 2 August 2003)
(Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

Hawking and canvassing for the sale or exchange of foreign banknotes are prohibited.

Whoever goes to the domicile of private individuals, other than bankers and brokers, or to public places, to sell or purchase such banknotes, with immediate delivery and payment, in whole or in part, for cash or for securities, is engaged in the hawking of foreign banknotes.

Whoever habitually goes to the domicile of private individuals, other than bankers and brokers, or to public places, to offer advice on the purchase, sale or exchange of such banknotes, or to offer participation in transactions relating to such banknotes, or in syndicates that carry out transactions based on price differentials relating to those same banknotes, is engaged in the hawking of foreign banknotes.

Offers of services habitually made (by letter, circular, telephone or any other means) at the domicile of persons other than bankers and brokers, or in public places, with a view to executing transactions referred to in the previous paragraph, are also considered to be acts of canvassing prohibited by the present article.

Article L343-1

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(inserted by Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

The remote delivery of financial services to a consumer, as described in Article L. 121-20-8 of the Consumer Code, is governed by the provisions of Subsections 2 and 3 of Section 2 of Chapter 1 of Part II of Book I of that same code, reproduced hereunder:

"Subsection 2: Provisions specific to contracts relating to financial services

"Art. L. 121-20-8

"The present subsection governs the provision of financial services to a consumer within the framework of a remote sales or service provision system organised by the provider or an intermediary who, for that contract, relies solely on

one or more remote communication methods up to an including the conclusion of the contract.

"It applies to the services referred to in Books I to III and Part V of Book V of the Monetary and Financial Code and to transactions carried out by companies governed by the Insurance Code, the mutual societies and unions governed by Book II of the Mutuality Code and by the provident societies and unions governed by Part III of Book IX of the Social Security Code, without prejudice to the specific provisions made by those codes."

"Art. L. 121-20-9

"For contracts relating to financial services that call for an initial service agreement followed by successive transactions or a series of separate transactions of the same kind at regular intervals, the provisions of the present subsection apply to the initial service agreement only. For contracts renewable by tacit agreement, the provisions of the present subsection apply to the initial service agreement only.

"Where there is no initial service agreement and successive or separate transactions of the same kind are carried out between the same parties at regular intervals, the provisions of Article L. 121-20-10 apply to the first transaction only. However, if no transaction of the same kind is carried out during a period of more than one year, these provisions apply to the next transaction, which is deemed to be an initial transaction."

"Art. L. 121-20-10

"In good time and before he is bound by a contract, the consumer receives information as determined in a Conseil d'Etat decree, relating, inter alia, to:

"1 The provider's name and address and, if applicable, those of its representative and intermediary;

"2 The specific information documents relating to the products, financial instruments and services offered as determined by the laws and regulations in force or, in the absence of such documents, a prospectus on each of the products, financial instruments and services offered which indicates the specific risks, if any, that the products offered might entail;

"3 The terms of the contractual proposal, including the total cost actually payable by the consumer, or, if an exact cost cannot be indicated, the basis of calculation of the cost, to enable the consumer to verify it, and the terms and conditions under which the contract will be entered into, including the place and date of its signing;

"4 The existence or otherwise of a right to withdraw and the procedure for exercising it;

"5 The law applicable to the pre-contractual relations and the contract, and the existence of any jurisdictional clause.

"The information concerning contractual obligations supplied to the consumer by the provider shall comply with the law applicable to any contract entered into.

"This information, whose commercial nature must be evident, shall be conveyed clearly and comprehensibly by any means compatible with the remote communication method used.

These provisions are applicable without prejudice to application of the legal and regulatory obligations specific to each product, financial instrument or service offered.

"The Conseil d'Etat decree referred to in the first paragraph also determines the specific arrangements applicable when communication is via voice telephony."

"Art. L. 121-20-11

"The consumer must receive the contractual terms and conditions in writing or on some other durable medium which is readily available to him in good time, and before any commitment is made, along with the information referred to in Article L. 121-20-10. The provider may meet its obligations under Article L. 121-20-10 and the present article by sending the consumer a single document, provided that it is in writing or on some other durable medium and that the information it contains remains unchanged until the contract is concluded.

"The provider fulfils its communication obligations immediately after the conclusion of the contract if the contract is entered into at the consumer's request via a remote communication method which does not permit transmission of the pre-contractual and contractual information on paper or some other durable medium.

"At any time during the contractual relationship, the consumer is entitled, if he so requests, to receive the terms and conditions of the contract on paper. Moreover, the consumer is entitled to change the remote communication method used, unless this is incompatible with the remote contract entered into or with the nature of the financial service provided."

"Art. L. 121-20-12

"I. - The consumer has a period of fourteen full calendar days in which to exercise his right to withdraw, without being required to give a reason or bear any penalty.

"The period during which the right to withdraw may be exercised begins:

"1 Either on the day on which the remote contract is entered into;

"2 Or on the day on which the consumer receives the terms and conditions of the contract and the information pursuant to Article L. 121-20-11, if this date is later than the date referred to in 1.

"II. - The right to withdraw does not apply to:

"1 The provision of financial instruments referred to in Article L. 211-1 of the Monetary and Financial Code or to the receipt-transmission and order-processing services for third parties referred to in Article L. 321-1 of that same code;

"2 Contracts fully entered into by the two parties at the express request of the consumer before he exercises his right to withdraw;

"3 The real-property contracts described in Article L. 312-2.

"III. - The present article does not apply to the contracts referred to in Article L. 121-60.

"IV. - For the allotted credit agreements described in Article L. 311-20 concluded via a remote communication method, and notwithstanding the provisions of Article L. 311-24, the fourteen-day cooling-off period cannot be reduced.

"Notwithstanding the provisions of Article L. 311-25, exercise of the right to withdraw only entails automatic

cancellation of the contract of sale or contract for the provision of services if it takes place within seven days of the conclusion of the credit agreement. Moreover, if the consumer expressly requests immediate delivery or provision of the product or service, exercise of the right to withdraw only entails automatic cancellation of the contract of sale or contract for the provision of services if it takes place within three days of the conclusion of the credit agreement. Any early delivery or provision is the seller's responsibility and is at its risk."

"Art. L. 121-20-13

"I. - Contracts to which the cooling-off period referred to in Article L. 121-20-12 applies cannot take effect between the parties until the said period has expired unless the consumer so consents. When the consumer exercises his right to withdraw, he may be required to effect a proportional payment for the financial service actually provided, but shall not bear any penalty.

"The provider can only require the consumer to pay for the service referred to in the first paragraph if it can show that the consumer was informed of the amount due pursuant to Article L. 121-20-10. It shall nevertheless not demand such payment if it commenced performance of the contract before the expiry of the cooling-off period without the consumer having so requested.

"Performance of the consumer credit agreements provided for in Chapter 1 of Part I of Book III may not commence during the first seven days, even with the consumer's consent, with the exception of the allotted credit agreements referred to in IV of Article L. 121-20-12, performance of which cannot commence during the first three days.

"II. - The supplier is required to repay to the consumer all the sums it received from him pursuant to the contract as soon as possible and within thirty days at the latest, with the exception of the amount referred to in the first paragraph of I. The said period runs from the day on which the supplier receives notification from the consumer of his desire to withdraw. Beyond the thirty-day period, interest is automatically applied to the sum due at the legal interest rate in force.

"The consumer shall return to the supplier as soon as possible and within thirty days at the latest any sum and any product which it has received from it. The said period runs from the day on which the consumer informed the supplier of his desire to withdraw."

"Art. L. 121-20-14

"The provisions of Article L. 34-5 of the Post and Electronic Communications Code, reproduced in Article L. 121-20-5, apply to financial services.

"The remote communication methods intended for the marketing of financial services other than those referred to in Article L. 34-5 of the Post and Electronic Communications Code may be used only if the consumer has not raised an objection thereto.

"The measures provided for in the present article shall not give rise to any cost for the consumer."

"Subsection 3: Common Provisions

"Art. L. 121-20-15

"When the parties have chosen the law of a State which is not a member of the European Community to govern the contract, the judge before whom the said law is invoked is required to dismiss application thereof in favour of the more protective provisions of the law of the consumer's normal place of residence containing the transposition of Directive 97/7/EC of the European Parliament and Council of 20 May 1997 relating to consumer protection in regard to remote contracts, and Directive 2002/65/EC of the European Parliament and Council of 23 September 2002 relating to remote marketing of financial services to consumers, when the contract is closely linked to the territory of one or more Member States of the European Community; this condition is deemed to be met if the consumer's residence is located in a Member State."

"Art. L. 121-20-16

"The provisions of the present section are a matter of public policy.

"Art. L. 121-20-17

"Offences against the provisions of Articles L. 121-18, L. 121-19, L. 121-20-5, L. 121-20-10 and L. 121-20-11, and likewise refusal by the seller or service provider to repay the consumer as determined in Articles L. 121-20-1 and L. 121-20-13, are recorded and dealt with as provided for in the first and third paragraphs of Article L. 450-1 and Articles L. 450-2, L. 450-3, L. 450-4, L. 450-7, L. 450-8, L. 470-1 and L. 470-5 of the Commercial Code (1)."

NB: (1) Article L. 121-20-17 of the Consumer Code is revoked by II of Article 4 of Order No. 2005-1086 of 1 September 2005.

Article L343-2

(Act No. 2003-706 of 1 August 2003 Art. 50 I Official Journal of 2 August 2003)
(inserted by Order No. 2005-648 of 6 June 2005 Art. 5 Official Journal of 7 June 2005 effective 1 December 2005)

When remote delivery of financial services to a consumer is preceded by canvassing within the meaning of Article L. 341-1, the provisions of Chapter 1 of Part IV of Book III, with the exception of Article L. 341-16, also apply. Article L. 341-12 applies instead of Article L. 121-20-10 of the Consumer Code and the references made to that article are replaced by references to Article L. 341-12.

Part V
Criminal Provisions **Articles L351-1 to L353-6**

CHAPTER I

Article L351-1

(Act No. 2001-1168 of 11 December 2001 Art. 13 II 1, 2 Official Journal of 12 December 2001 effective 12 December 2002)

(Finance Act No. 2004-1484 of 30 December 2004 Art. 106 for 2005 Official Journal of 31 December 2004)

Non-compliance with the obligations imposed by the second, third, fourth and fifth paragraphs of I of Article L. 312-1-1 incurs a fiscal fine of 75 euros. The said fine is imposed and collected pursuant to the rules applicable to value added tax. The proceedings are instituted by the authority which established the offence.

Non-compliance with an obligation referred to in the first, sixth and seventh paragraphs of I of Article L. 312-1-1 or a prohibition covered by I of Article L. 312-1-2 is punished with the fine prescribed for contraventions of the fifth class.

Legal entities may be declared criminally liable for the offences indicated the previous paragraph as provided for in Article 121-2 of the Penal Code. The penalty incurred by legal entities is a fine as provided for in Article 131-38 of the Penal Code.

Before bringing a public action seeking application of the penalty provided for in the present article, the Public Prosecutor's Office may seek the opinion of the Banking Mediation Committee referred to in II of Article L. 312-1-3, if it considers it necessary. In the event of a complaint being lodged with filing of a civil action in relation to violations of the provisions referred to in the first paragraph, the Public Prosecutor may, before making his submissions, seek the opinion of the Banking Mediation Committee. The submissions are forwarded to the investigating judge after receipt of the Committee's opinion.

In the event of the injured party issuing a direct summons for a criminal court hearing for the offences referred to in the previous paragraph, the presiding judge may, before any consideration of the merits, seek the opinion of the Banking Mediation Committee. The said opinion is sent to the parties and to the court by the Committee and filed with the court.

The Banking Mediation Committee gives its decision within six weeks, at the latest, of receiving the request for an opinion. In that opinion, it assesses, inter alia, the seriousness of the facts and the repetitive nature thereof, if any.

Article L351-2

(inserted by Order No. 2005-429 of 6 May 2005 Art. 49 I Official Journal of 7 May 2005)

Breaches of the provisions of Article L. 312-3 are established in the same way as stamp duty offences:

- by the local Treasury departments;
- by agents of the financial authorities.

The statements of offence are drawn up at the request of the Minister for the Economy.

Article L351-3

(inserted by Order No. 2005-429 of 6 May 2005 Art. 49 I Official Journal of 7 May 2005)

Offences against the provisions of Article L. 312-3 committed by credit institutions may also be established as provided for in Article L. 351-2 by inspectors of the Bank of France specially authorised to do so by the Governor of the Bank of France.

Article L352-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The fact of a member of the Executive Board or the Supervisory Board of the Depositors' Guarantee Fund, or any person who, on account of his duties, has access to the documents and information held by that fund, breaching the professional secrecy instituted by Article L. 312-14 shall incur the penalties provided for in Article 226-13 of the Penal Code.

Article L353-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

(Act No. 2003-706 of 1 August 2003 Article 53 I 1, Official Journal of 2 August 2003)

The following offences incur six months' imprisonment and a fine of 7,500 euros:

1 The fact of any person engaged in canvassing activities for banking or financial services as defined in Article L. 341-1 not having obtained a canvassing card, when that activity is carried out as referred to in Article L. 341-8;

2 The fact of any person engaged in canvassing activities for banking or financial services as defined in Article L. 341-1 failing to provide the person canvassed with the information and documents referred to in Article L. 341-12 and

the penultimate paragraph of Article L. 341-6;

3 The fact of any person engaged in canvassing activities for banking or financial services as defined in Article L. 341-1 failing to comply with the rules laid down in Article L. 341-14 relating to the signing of the contract;

4 The fact of any person engaged in canvassing activities for banking or financial services as defined in Article L. 341-1 not allowing the person canvassed to benefit from the cooling-off period referred to in Article L. 341-16, without prejudice to the derogations provided for in that article;

5 The fact of any person engaged in canvassing activities for banking or financial services as defined in the second paragraph of Article L. 341-1 receiving orders or funds from the persons canvassed with a view to providing receipt-transmission and order-processing services on behalf of third parties referred to in Article L. 321-1, or financial instruments referred to in Article L. 221-1, before expiry of the forty-eight-hour period referred to in IV of Article L. 341-16.

Article L353-2

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Art. 53 I 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 7 II, Art. 50 Official Journal of 7 May 2005)

The following offences shall incur the penalties imposed by Article 313-1 of the Penal Code:

1 The fact of any person commissioning canvassing activities for banking or financial services as described in Article L. 341-1 without meeting the conditions stipulated in Articles L. 341-3 and L. 341-4;

2 The fact of any person engaged in canvassing activities for banking or financial services as described in Article L. 341-1 offering prohibited products within the meaning of Article L. 341-10;

3 Revoked.

4 The fact of any person engaged in canvassing activities for banking or financial services offering the persons canvassed products, financial instruments and services other than those in respect of which he has received express instructions from the person(s) for whom he is acting;

5 The fact of any person engaged in canvassing activities for banking or financial services receiving cash, negotiable debt instruments, securities, bearer cheques, or cheques made out to himself, or payment by any other means, from the persons canvassed.

Article L353-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 53 I 1, Official Journal of 2 August 2003)

Natural persons guilty of one of the offences indicated in Articles L. 353-1 and L. 353-2 shall also incur the following additional penalties:

1 Forfeiture of civil, political and family rights, pursuant to Article 131-26 of the Penal Code;

2 Disqualification, pursuant to Article 131-27 of the Penal Code, from public office or from exercising the professional or corporate activity in connection with which the offence was committed, for a maximum period of five years;

3 Posting or publication of the decision delivered, as determined in Article 131-35 of the Penal Code.

Article L353-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 53 I 1, Official Journal of 2 August 2003)

Legal entities may be declared criminally liable for the offences indicated in Articles L. 353-1 and L. 353-2, as determined in Article 121-2 of the Penal Code.

The penalties thus incurred by the legal entities are:

1 A fine as provided for in Article 131-38 of the Penal Code.

2 The penalties referred to in Article 131-39 of that same Code.

The disqualification referred to in 2 of Article 131-39 of the Penal Code relates to the activity in connection with which, or in parallel with which, the offence was committed.

Article L353-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 53 I 1, Official Journal of 2 August 2003)

The agents referred to in Article L. 450-1 of the Commercial Code are qualified to conduct inquiries and record the offences indicated in Articles L. 353-1 and L. 353-2 of the present Code, as provided for in Articles L. 450-2 to L. 450-4, L. 450-7 and L. 450-8 of the Commercial Code.

SECTION II

Transactions relating to Bullion and Foreign Banknotes — Article L353-6

Article L353-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 50 II 2, Article 53 I 2, Official Journal of 2 August 2003)

The fact of any person failing to meet the obligations imposed for transactions relating to bullion and banknotes by Articles L. 342-1 to L. 342-3 shall incur a penalty of six months' imprisonment and a fine of 9,000 euros.

The seizure and confiscation of the items referred to in Articles L. 342-1 to L. 342-3 are compulsory.

BOOK IV
The Markets

Articles L411-1 to L466-1

Part I
Public Issues

Articles L411-1 to L412-4

CHAPTER I
Definition

Articles L411-1 to L411-2

Article L411-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A public Issue takes place through one of the following events:

1. Admission of a financial instrument to trading on a regulated market;

2. A public issue or transfer of financial instruments through recourse to advertising, canvassing, credit institutions or investment service providers.

Article L411-2
(Act No. 2005-842 of 26 July 2005 Art. 25 I Official Journal of 27 July 2005)

I. - The admission to trading on a regulated market, or the issuance or transfer of financial instruments, does not constitute a public offering if it is:

1 Unconditionally and irrevocably guaranteed or issued by a European Economic Area Member State;

2 Issued by a public international organisation which France belongs to;

3 Issued by the European Central Bank or the central bank of a European Economic Area Member State;

4 Issued by an organisation referred to in 1 of I of Article L. 214-1.

II. - The issuance or transfer of financial instruments does not constitute a public offering if:

1 The offering relates to financial instruments referred to in 1 or 2 of I of Article L. 211-1 issued by a public limited company or a partnership limited by shares and the total amount of the offering is below a threshold set by the General Regulations of the Financial Markets Authority or an amount and portion of the issuer's capital determined by the General Regulations.

The total amount of the offering is calculated over a twelve-month period as provided for in the General Regulations;

2 The offering relates to financial instruments referred to in 1 or 2 of I of Article L. 211-1 issued by a public limited company or a partnership limited by shares and the beneficiaries of the offering purchase them for a total amount per investor and per individual offering greater than an amount determined by the General Regulations of the Financial Markets Authority;

3 The offering relates to financial instruments referred to in 1 or 2 of I of Article L. 211-1 issued by a public limited company or a partnership limited by shares and the nominal value of each of those financial instruments is greater than an amount determined by the General Regulations of the Financial Markets Authority;

4 Notwithstanding the use of canvassing, advertising or an investment service provider, the offering is intended solely for:

a) Persons providing a portfolio management investment service for third parties;

b) Qualified investors or a restricted circle of investors, provided that those investors are acting for their own account.

A qualified investor is a person or entity possessing the expertise and facilities required to apprehend the risks inherent in transactions relating to financial instruments. The list of investor categories recognised as qualified is determined by decree.

A restricted circle of investors has a number of members below a threshold set by decree who are not qualified investors.

III. - For application of the provisions of the Penal Code and of Order No. 45-2138 of 19 September 1945 instituting the Order of Accountants and regulating the accountant's title and profession, partnerships and other legal entities carrying out transactions referred to in 1 to 3 of II are deemed to make public offerings.

CHAPTER II
Conditions applicable to Public Issues

Articles L412-1 to L412-4

SECTION I
General Notice Requirements

Article L412-1

Article L412-1
(Act No. 2001-1168 of 11 December 2001 Art. 27 I 2 Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Art. 46 V 2 Official Journal of 2 August 2003)
(Act No. 2005-842 of 26 July 2005 Art. 26 I Official Journal of 27 July 2005)

I. - Without prejudice to the other provisions applicable thereto, persons or entities making a public offering shall, prior to doing so, publish and make available to any interested party a document designed to inform the public concerning the content and terms and conditions of the process which is the subject thereof and the issuer's organisation, financial situation and business prospects and those of any guarantor of the financial instruments included in that process, as determined in the General Regulations of the Financial Markets Authority. The said document shall be written in French or, in certain cases specified in the said General Regulations, another language widely used in financial dealings. It shall include a summary and, when written in another language, shall be accompanied by a French translation of the summary.

II. - The General Regulations also determine the manner in which an issuer whose securities have been issued or transferred in the context of a public offering or admitted to trading on a financial instruments market shall inform the public thereof.

The General Regulations may take into account the fact of the financial instruments being traded, or not being traded, on a financial instruments market other than a regulated market and, when such is the case, the characteristics of that market. They may also provide for certain rules to apply only to certain financial instruments markets, at the request of the person who manages them.

III. - The General Regulations also determine the terms and conditions under which a person or entity may cease making public offerings.

Article L412-2

(Act No. 2001-420 of 15 May 2001 Article 102, Official Journal of 16 May 2001)
(Order No. 2004-274 of 25 March 2004 Article 12, Official Journal of 27 March 2004)

The prohibitions on issuing transferable securities or making public offerings are set out in Articles L. 223-11, L. 227-2 and the first paragraph of Article L. 228-39 of the Commercial Code, reproduced hereunder:

Article L. 223-11 (first paragraph): A limited liability company, required by virtue of Article L. 223-35 to appoint an auditor, and whose accounts for the last three twelve-month accounting periods have been duly approved by the members, may issue registered securities without making a public offering.

Article L. 227-2 - A simplified joint-stock company cannot make public offerings.

Article L. 228-39 (first paragraph). - The issue of bonds by a joint-stock company which has not drawn up two balance sheets which have been duly approved by the shareholders must be preceded by an audit of the assets and liabilities as provided for in Articles L. 225-8 and L. 225-10.

Article L412-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Breaches of the prohibitions laid down in the aforementioned Articles of the Commercial Code are punished by Article 1841 of the Civil Code reproduced below:

"Article 1841. - Companies which have not been authorised to do so by law are prohibited from making public offerings and from issuing tradable securities, under pain of the contracts entered into or the securities issued being declared null and void."

Article L412-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The rules relating to European Economic Interest Groups as regards public offerings are laid down in the first paragraph of Article L. 252-10 of the Commercial Code, reproduced below:

"Article L. 252-10 (first paragraph). - European Economic Interest Groups shall not make public offerings, and any contract entered into or securities issued in contravention hereof shall be null and void."

Article L421-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 3, Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 III 4, Official Journal of 2 August 2003)

Recognition as a regulated market for financial instruments is decided by order of the Minister for the Economy on a

proposal from the Financial Markets Authority. The said order is published in the Official Journal of the French Republic. The market rules are published under conditions determined by the Financial Markets Council.

Withdrawal of regulated market status is pronounced either at the request of the market undertaking, or automatically when the conditions which justified recognition are no longer met or when the market has not functioned for at least six months. Such withdrawal is decided in accordance with the procedure contained in the first paragraph.

Article L421-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The markets for transferable securities and the futures markets regularly operating as of 4 July 1996 are recognised as regulated markets within the meaning of Article L. 421-1.

SECTION II

Operating Conditions of the Regulated Markets — Articles L421-3 to L421-5

Article L421-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 5, Official Journal of 2 August 2003)

To be recognised as a regulated market, a financial instruments market must guarantee regular trading. The rules of the said market, established by the market undertaking as defined in Article L. 441-1, must determine, inter alia, the conditions of access to the market and admission to quotation, the provisions relating to the organisation of transactions, the conditions for suspending trading of one or more financial instruments, and the rules relating to registration and publication of trading information.

The said rules are approved by the Financial Markets Council.

Amendments to the rules are reported to the Financial Markets Authority and to the Bank of France. The Council rules on their compatibility with the recognition referred to in Article L. 421-1, informs the Bank of France of its decision, and refers the matter to the Minister for the Economy in the event of any incompatibility being noted between the amendments and the decision to recognise.

Article L421-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 4, Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 III 6, V 1, Official Journal of 2 August 2003)

I. - The decision to admit financial instruments to trading on a regulated market is taken by the market undertaking, without prejudice to the Financial Markets Authority's right to object.

The express agreement of the issuer of the financial instrument is required.

II. - After informing the issuer thereof, the market undertaking may suspend trading of a financial instrument quoted on the regulated market for which it is responsible, for a fixed term and within the scope of that market's rules. It also informs the chairman of the Financial Markets Authority of the suspension. In exceptional circumstances, the chairman of the Financial Markets Authority may, within the scope of the powers entrusted to that authority, ask the market undertaking to suspend trading of a financial instrument.

The issuer of a financial instrument admitted to trading on a regulated market may ask the market undertaking to suspend that instrument to enable information to be provided to the public in satisfactory conditions.

III. - The delisting of a financial instrument is decided by the market undertaking, without prejudice to the Financial Markets Authority's right to object.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L421-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When an exceptional event disrupts the proper functioning of a regulated market, the chairman of the Financial Markets Council or, if he is unavailable, the representative designated by him for that function, may suspend some or all of the trading for a period not exceeding two consecutive trading days. Beyond that period, the suspension is declared by order of the Minister for the Economy issued on a proposal from the chairman of the Financial Markets Council.

If the suspension on a regulated market has lasted more than two consecutive trading days, the transactions in progress on the date of suspension may be cleared and closed as provided for in the market rules.

SECTION III

Obligation of Intermediation and Trading Monopoly — Articles L421-6 to L421-7

Article L421-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In France, trading in, and transfers of, financial instruments admitted to trading on a regulated market may, under

pain of being declared null and void, only be carried out by an investment service provider or, when they are carried out on a regulated market, by any member of that market.

Article L421-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Transfers between the following parties are not subject to the obligation imposed by Article L. 421-6:

1. Two natural persons, when they relate to transferable securities;
2. Two companies, when one of them directly or indirectly holds at least 20% of the other's shares;
3. A legal entity other than a company and a company, when the legal entity directly or indirectly holds at least 20% of the company's shares;
4. Two companies controlled by the same company within the meaning of Article L. 233-3 of the Commercial Code;
5. Insurance companies belonging to the same group;
6. Legal entities and the pension funds or welfare funds that they manage.

SECTION IV
Regulations applicable to Members of a Regulated Market — Articles L421-8 to L421-11

Article L421-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In addition to duly authorised investment service providers, and contrary to Article L. 531-10, the following are authorised to become members of a regulated financial instruments market:

1. Natural persons or legal entities authorised by the Financial Markets Council to provide services referred to in 2 and 3 of Article L. 321-1;
2. Legal entities whose members or partners are indefinitely and jointly liable for their debts and commitments, provided that those members or partners are authorised to provide the services referred to in 2 and 3 of Article L. 321-1;
3. Natural persons or legal entities already authorised, as of 4 July 1996, to provide the services referred to in 2 and 3 of Article L. 321-1 on regularly functioning stock exchanges placed under the supervision of the Stock Exchange Council and on the futures markets placed under the supervision of the Futures Market Council.

The authorisation referred to in 1 and 2 above is granted on the basis of the requirements in regard to expertise, respectability, solvency and, where applicable, equity capital and guarantees, laid down by the General Regulations of the Financial Markets Council.

Article L421-9
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Admission to and continued membership of a regulated market, granted by the market undertaking which organises the transactions on that market, are contingent upon compliance with that market's rules.

The relations between a market undertaking and a person referred to in Article L. 421-8 are of a contractual nature.

Article L421-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Market undertakings cannot limit the number of investment service providers on the market for which they are responsible. The Financial Markets Council ensures that the market undertakings adapt their technical capability as necessary, consistent with the requests for access that are received.

Article L421-11
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The trading members of a regulated market are responsible for executing the orders they receive, whether those orders are collected by themselves, their agents or their employees, and in whatever form.

SECTION V
Centralisation of Orders on the Regulated Markets — Articles L421-12 to L421-13

Article L421-12
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Transactions on a financial instrument admitted to trading on a regulated market carried out for the benefit of an investor habitually residing or established in France by an approved investment service provider, or one practising in France through freedom to provide services or freedom of establishment, are void if they are not carried out on a regulated market of a European Economic Area Member State.

Notwithstanding the provisions of the previous paragraph, the transactions referred to therein may be carried out outside a regulated market if so requested by investors habitually residing or established in France and if the transaction meets the conditions laid down in the General Regulations of the Financial Markets Council concerning its volume, the status of the investor, the nature of the financial instrument traded and the information provided on the regulated market on which that instrument is quoted. This derogation is granted automatically for all transactions which, when included in an agreement other than an ordinary sale, constitute an essential element thereof.

Article L421-13

(inserted by Order No. 2001-420 of 15 May 2001 Article 2, Official Journal of 16 May 2001)

Transactions on financial instruments which are the subject of a takeover bid may only be carried out on a regulated market of a European Economic Area Member State or on a market recognised pursuant to Article L. 423-1 on which such financial instruments are quoted. Without prejudice to the penalty provided for in Article L. 421-12, the holders of financial instruments acquired in breach of the foregoing provisions are divested of the voting right at any meeting of shareholders which might be held before a period of two years has elapsed since the date of their acquisition.

Article L422-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Article L. 423-1, with the exception of those relating to the protection of public savings, do not apply to Regulated Markets having their registered office in a European Economic Area Member State.

Without prejudice to the provisions relating to the protection of public savings, any regulated market of a European Economic Area Member State which operates without requiring the effective presence of natural persons may provide the means of access to that market within the territory of Metropolitan France and the Overseas Departments.

Article L423-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The public may only be approached, in any form whatsoever and by whatever means, directly or indirectly, in connection with transactions relating to a foreign market for transferable securities other than a regulated market of a European Economic Area Member State, for negotiable futures contracts or any other financial product, if that market has been recognised as determined by decree, and subject to reciprocity.

Article L424-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The holding, transportation and trading of gold are unrestricted in France.

Article L431-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 5, Official Journal of 12 December 2001)

For each order to trade, assign or transfer a financial instrument which is registered pursuant to the law or the issuing legal entity's articles of association and is serviced by a central custodian, or for any other change that affects the registration of the said financial instrument, the authorised intermediary referred to in the first paragraph of Article L. 211-4 shall complete a registered references form. That form, which bears a code that facilitates identification of the transaction to which it relates, indicates the principal's identifying elements, the legal nature of his rights and any restrictions which apply to the financial instrument.

The General Regulations of the Financial Markets Council determine the particulars of the registered references form and the time limits applicable to its circulation between the authorised intermediary, the central custodian and the issuing legal entity.

Article L431-2

(Order No. 2005-303 of 31 March 2005 Art. 1 Official Journal of 1 April 2005)

Transfer of title of financial instruments referred to in 1, 2 and 3 of I of Article L. 211-1 which are entrusted to a central custodian or delivered to a settlement-delivery system referred to in Article L. 330-1 derives from their entry in

the buyer's books on the date and in the manner stipulated in the General Regulations of the Financial Markets Authority.

If the account of the buyer's authorised intermediary has not been credited with the relevant financial instruments on the date and in the manner stipulated in the General Regulations of the Financial Markets Authority, the transfer shall be automatically cancelled, notwithstanding any contrary legislative provision and without prejudice to the buyer's right of recourse.

When several buyers are affected by such cancellation, it takes place in proportion to their individual rights.

Notwithstanding the above paragraphs, when the settlement-delivery system delivers the financial instruments on the basis of continuous irrevocable settlement, the General Regulations of the Financial Markets Authority determine the specific conditions of transfer of title. Such transfer to the buyer does not take place until he has paid the transaction price. The intermediary who has received the financial instruments holds title thereto until such time as the buyer has paid the price.

NB: Order 2005-303 2005-03-31 Art. 4: Articles 1, 2 and 3 of the present order shall enter into force upon publication of the provisions of the General Regulations of the Financial Markets Authority to which Articles L. 431-2 and L. 431-3 of the Monetary and Financial Code, as amended, refer in the Official Journal of the French Republic.

Article L431-3

(Order No. 2005-303 of 31 March 2005 Art. 2 Official Journal of 1 April 2005)

In the case of delivery of financial instruments referred to in 1, 2 and 3 of I of Article L. 211-1 for cash settlement, a failure to deliver or to settle duly noted on the date and in the manner laid down in the General Regulations of the Financial Markets Authority or, failing that, by agreement between the parties, automatically releases the non-defaulting party from any obligation in relation to the defaulting party, notwithstanding any legislative provision to the contrary.

When a book-keeping intermediary or custodian clears a transaction through delivery of financial instruments for cash settlement by substituting itself for its defaulting client, it may avail itself of the provisions of the present article: it thus acquires full title to the financial instruments or the cash received from the counterparty. The provisions of Book VI of the Commercial Code shall not impede the application of the present article. No creditor of the defaulting client may invoke any right against the said financial instruments or cash.

NB: Order 2005-303 2005-03-31 Art. 4: Articles 1, 2 and 3 of the present order shall enter into force upon publication of the provisions of the General Regulations of the Financial Markets Authority to which Articles L. 431-2 and L. 431-3 of the Monetary and Financial Code, as amended, refer in the Official Journal of the French Republic.

Subsection 2
Pledging — Articles L431-4 to L431-5

Article L431-4

(Order No. 2005-171 of 24 February 2005 Art. 1 I Official Journal of 25 February 2005)

I. - The pledging of a financial instruments account referred to in 1, 2 and 3 of I of Article L. 211-1 and of equivalent financial instruments issued on the basis of foreign laws is effected, between the parties and in regard to the issuing legal entity and third parties, through a declaration signed by the accountholder. The said declaration contains the statements determined by decree. The financial instruments initially credited to the pledged account and those substituted therefor or added thereto to secure the initial debt, as well as the income and profits therefrom in any currency, are included in the scope of the pledge. By issuing a simple request to the book-keeper, the pledgee may obtain an attestation of pledge for the financial instruments account, consisting of an inventory of the financial instruments and sums in any currency entered in the pledged account as of the date of issue of that attestation. The financial instruments and sums in any currency subsequently credited to the pledged account to secure the pledgee's initial debt are subject to the same conditions as those initially credited and are deemed to have been provided on the date of the original declaration of pledge.

II. - The pledged account takes the form of a special account opened in the name of the holder and maintained by an authorised intermediary, a central custodian or, if applicable, the issuing legal entity.

If no special account exists, the financial instruments referred to in the first paragraph, along with the sums in any currency identified for this purpose by a computer process, are deemed to constitute the pledged account.

III. - When the financial instruments held in the pledged account are in registered form and the accountholder is not a person authorised to receive funds from the public within the meaning of Article L. 312-2, the income and profits referred to in I paid in any currency must be credited to a special account opened in the name of the holder of the pledged account in the books of an authorised intermediary or a credit institution. This special account is deemed to form an integral part of the pledged account on the date of signing of the declaration of pledge. The pledgee may obtain on request an attestation that includes an inventory of the sums in any currency credited to that account on the date of submission of the said attestation;

IV. - The pledgee determines with the accountholder the circumstances in which the latter may dispose of the financial instruments and the sums in any currency held in the pledged account. The pledgee benefits in all circumstances from a lien on the financial instruments and sums in any currency held in the pledged account.

V. - A pledgee holding a debt which is certain, liquid and payable may, in respect of French or foreign transferable securities traded on a regulated market, units or shares of unit trusts, and sums in any currency, enforce a civil or commercial pledge eight days after service of a formal notice on the debtor by hand or by registered mail, or upon expiry of any other time limit agreed in advance with the accountholder. The formal notice served on the debtor is notified to

the pledgor when it is not also the debtor, and to the book-keeper when it is not also the pledgee. Enforcement of the pledge takes place as determined by decree.

For financial instruments other than those referred to in the previous paragraph, enforcement of the pledge takes place pursuant to the provisions of Article L. 521-3 of the Commercial Code.

NB: Order 2005-171 2005-02-24 Art. 1 1 c) 2nd paragraph: The provisions of the first paragraph of I 1 c) are of an interpretive nature.

Article L431-5

(Order No. 2005-171 of 24 February 2005 Art. 1 II Official Journal of 25 February 2005)

The provisions of V of Article L. 431-4 pertaining to enforcement of pledges apply to the pledging of financial instruments whose book entries in France or abroad were made before 4 July 1996.

SECTION II

Clearing — Articles L431-7 to L431-7-2

Article L431-7

(Act No. 2001-420 of 15 May 2001 Art. 29 I Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 38 1, Art. 39 Official Journal of 2 August 2003)
(Order No. 2005-171 of 24 February 2005 Art. 2 I 1 Official Journal of 25 February 2005)
(Act No. 2005-842 of 26 July 2005 Art. 31 II Official Journal of 27 July 2005)

I. - The provisions of the present section apply to:

1 Financial obligations resulting from financial instrument transactions when at least one of the parties is a credit institution, an investment service provider, a public institution, a territorial authority, another institution, a person or an entity having the benefit of the provisions of Article L. 531-2, a clearing house, a non-resident institution having comparable status, or an international financial organisation or body which France or the European Union is a member of;

2 Financial obligations resulting from any contract giving rise to a cash settlement or a delivery of financial instruments when all the parties belong to one of the categories of persons referred to in the previous paragraph, with the exception of the persons referred to in paragraphs c) to i) of 2 of Article L. 531-2;

3 Financial obligations resulting from any contract entered into within the framework of a system referred to in Article L. 330-1.

II. - Agreements relating to financial obligations referred to in I are voidable, and the debts and receivables associated therewith may be offset. The parties may provide for a single balance to be established regardless of whether these financial obligations are governed by one or more agreements or framework agreements.

III. - The terms of cancellation, valuation and set-off applicable to the transactions and obligations referred to in I and II may be raised against third parties. These terms may be laid down in agreements or framework agreements. Any cancellation, valuation or set-off carried out on account of civil enforcement proceedings is deemed to have taken place before the said procedure.

Article L431-7-1

(inserted by Order No. 2005-171 of 24 February 2005 Art. 2 I 1 Official Journal of 25 February 2005)

The assignment of receivables relating to financial obligations referred to in I of Article L. 431-7 may be raised against third parties when the debtor is informed of the assignment. The assignment of contracts relating to financial obligations referred to in I of Article L. 431-7 may be raised against third parties with the written agreement of the parties.

Article L431-7-2

(inserted by Order No. 2005-171 of 24 February 2005 Art. 2 I 1 Official Journal of 25 February 2005)

The provisions of Book VI of the Commercial Code, or those governing any equivalent judicial or amicable proceedings instituted on the basis of foreign legal systems, shall not impede application of the provisions of the present section.

Section III

Guarantees — Articles L431-7-3 to L431-7-5

Article L431-7-3

(inserted by Order No. 2005-171 of 24 February 2005 Art. 2 I 2 Official Journal of 25 February 2005)

I. - In order to secure the present or future financial obligations referred to in I of Article L. 431-7, the parties may provide for the transfer with full title, enforceable against third parties without formalities, of securities, financial instruments, bills, receivables or sums of money, or sureties on such property or rights, enforceable even when one of the parties is the subject of proceedings referred to in Book VI of the Commercial Code, or equivalent judicial or amicable proceedings founded on foreign legal systems, or civil enforcement proceedings or exercise of a right to object.

The debts and receivables associated with such guarantees and those relating to such obligations may thus be offset pursuant to II of Article L. 431-7.

II. - When the guarantees referred to in I relate to the financial obligations referred to in 2 and 3 of I of Article L. 431-7:

1 The establishment of such guarantees and their enforceability are not subject to any formality. They derive from the transfer of the relevant property and rights, the dispossession of the grantor or their control by the beneficiary or a person acting on his behalf;

2 The identification of the relevant property and rights, transfer thereof, and dispossession of the grantor or control by the beneficiary must be attestable in writing;

3 Enforcement of such guarantees takes place under normal market conditions, by set-off, appropriation or sale, without formal prior notice, applying valuation methods determined by the parties when the financial obligations covered became due.

III. - The deed providing for the guarantees referred to in I may specify the circumstances in which the beneficiary of those guarantees may use or alienate the relevant property and rights, on condition that he return equivalent property or rights to the grantor. The guarantees concerned then relate to the equivalent property or rights thus returned as if they had been established on the same equivalent property or rights from the outset. The said deed may allow the beneficiary to offset his liability to return equivalent property or rights against the financial obligations in respect of which the guarantees were established, when they have become due.

Equivalent property or rights shall be taken to mean:

1 In relation to cash: a sum of the same amount in the same currency;

2 In relation to financial instruments: financial instruments from the same issuer or debtor, forming part of the same issue or the same category, having the same nominal value, denominated in the same currency and having the same designation or, other assets, when the parties so provide, in the event of a fact occurring which concerns or affects the financial instruments which constitute the guarantee.

For property or rights other than those referred to in 1 and 2, the same property or rights shall be returned.

IV. - The terms of enforcement and set-off for the guarantees referred to in I and the obligations referred to in I of Article L. 431-7 are binding on third parties. Any enforcement of set-off executed on account of civil enforcement proceedings or the exercise of a right to object is deemed to have been initiated prior to those proceedings.

Article L431-7-4

(inserted by Order No. 2005-171 of 24 February 2005 Art. 2 I 2 Official Journal of 25 February 2005)

The rights or obligations of the grantor, the beneficiary or any third party relative to the guarantees referred to in I of Article L. 431-7-3 pertaining to financial instruments represented by a book entry are determined by the law of the State in which the account in which the financial instruments are placed or constituted by way of guarantee is located.

Article L431-7-5

(inserted by Order No. 2005-171 of 24 February 2005 Art. 2 I 2 Official Journal of 25 February 2005)

The provisions of Book VI of the Commercial Code, or those governing all equivalent judicial or amicable proceedings instituted on the basis of foreign laws, shall not impede application of the present section.

CHAPTER II
Specific Methods of Assigning Financial Instruments — Articles L432-1 to L432-20

SECTION I
Credit sales — Articles L432-1 to L432-4

Article L432-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Regardless of the form thereof, any assignment, granted via a private deed, of securities or parts of securities traded on a regulated market in return for a price payable forward in whole or in part shall be declared null and void if the buyer so requests, without prejudice to any compensation, even if enforcement has commenced, if the contract of sale does not comply with the formalities determined by decree.

Payment by instalments cannot be scheduled over a period exceeding two years.

Article L432-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The seller is required to retain the certificate sold. He cannot either relinquish it or pledge it. He must produce it whenever requested to do so by the buyer.

Any stipulation to the contrary is null and void.

The same applies to any clause or reference which directly or indirectly departs from the general rules of the relevant jurisdiction.

Article L432-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of the present section are not applicable to stock-exchange orders.

Article L432-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The selling of securities in batches with payment by instalments is prohibited.

SECTION II
Auctions — Article L432-5

Article L432-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Voluntary or forced public auctions of transferable securities are held, if the securities are admitted to trading on a regulated market, by investment service providers who are members of the regulated market on which those securities are traded, or, failing this, by an investment service provider or a notary.

Even if the articles of association contain provisions to the contrary, the provisions of the present article shall apply to auctions held on account of failure to pay up shares.

SECTION III
Temporary Assignments — Articles L432-6 to L432-19

Subsection 1
Securities Lending — Articles L432-6 to L432-11

Article L432-6
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 29 III 1, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 38 2, Official Journal of 2 August 2003)

The provisions of Article L. 432-9 are applicable to loans of securities which meet the following conditions:

1. The loan relates to the financial instruments referred to in 1, 2 and 3 of Article L. 211-1 or to any equivalent instruments issued on the basis of foreign laws;

2. The loan relates to securities which shall not, throughout the term of the loan, be the subject of a detachment of a right to a dividend or payment of interest subject to the deduction at source referred to in 1 of Article 119a or in Article 1678a of the General Tax Code or giving entitlement to the tax credit referred to in b of 1 of Article 220 of that same code, or a redemption, a drawing of lots that could give rise to a refund, an exchange or a conversion provided for in the issuing contract;

3. The loan is subject to the provisions of Articles 1892 to 1904 inclusive of the Civil Code;

4. The securities are borrowed by a legal entity which is automatically subject to a real tax scheme, by an undertaking for collective investment in transferable securities, or by a non-resident person, company or institution having comparable status.

The parties may agree further loans of cash or securities, with full title, to take account of fluctuations in the value of the loaned securities.

Article L432-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The tax scheme applicable to the earnings allocated to pay for securities lending is determined by the first two sentences of 2 of I of Article 38a of the General Tax Code reproduced hereunder:

"The earnings allocated to pay for securities lending constitute debt income. When the period of the loan covers the date of payment of the income attaching to the loaned securities, the amount of the earnings cannot be lower than the value of the income which the lender has foregone."

Article L432-9
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When the securities are loaned by a company, they are taken prioritarily from the securities of the same type bought or subscribed most recently.

The debt which represents the loaned securities is shown separately on the balance sheet from the original value of those securities.

Upon expiry of the loan, the securities returned are shown on the balance sheet at that same value.

Any provision for depreciation previously made on the loaned securities is not recovered when the loan is made. It must be shown on a separate line on the balance sheet and remain unchanged until those securities are returned.

Article L432-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The loaned securities and the debt representing the obligation to return those securities are shown separately on the borrower's balance sheet at the market price on the day of the loan.

When the borrower transfers securities, they are taken prioritarily from the securities of the same type bought or subscribed on the most distant date. Subsequent purchases of securities of the same type are allocated prioritarily to replacement of the loaned securities.

A the close of the accounting period, the loaned securities shown on the borrower's balance sheet and the debt representing the obligation to return them deriving from the contracts in force are registered at the market price of those securities on that date.

Upon expiry of the loan, the loaned securities are deemed to be returned at the value at which the debt representing the obligation to return them is shown on the balance sheet.

Article L432-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of the present subsection apply as stipulated in IIa of Article 38a of the General Tax Code.

Subsection 2
Repurchase Agreements — Articles L432-12 to L432-19

Article L432-12

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 29 II 1, Official Journal of 16 May 2001)

A repurchase agreement is the means through which a legal entity, unit trust or securitisation fund assigns to another legal entity, unit trust or securitisation fund, with full title and at an agreed price, securities, certificates or bills, as defined hereinafter, and through which the assignor and the assignee respectively and irrevocably undertake, the former, to take back the securities, certificates or bills, and the latter, to sell them back at an agreed price and on an agreed date.

The securities, certificates or bills referred to above are:

1. Financial instruments referred to in 1, 2 and 3 of Article L. 211-1 or any equivalent instruments issued on the basis of foreign laws;

2. Public or private bills.

Only credit institutions may enter into reverse repurchase agreements or repurchase agreements for private bills, however.

Article L432-13

(Act No. 2003-1311 of 30 December 2003 Article 93 II d 2 finances for 2004, Official Journal of 31 December 2003)

A repurchase agreement relates to securities, certificates or bills which shall not, during the term of the agreement, be subject to:

1. Detachment of a right to a dividend giving entitlement to the tax credit referred to in b of 1 of Article 220 of the General Tax Code. (1)

2. The payment of interest subject to the deduction at source referred to in 1 of Article 119a or in Article 1678a of the General Tax Code or giving entitlement to a tax credit referred to in b of 1 of Article 220 of that same code.

A redemption, or the drawing of lots giving rise to a refund, exchange, conversion, or exercise of a subscription warrant, extinguishes the repurchase agreement.

NB 1: Article 93 II E Act 2003-1311 2003-12-30, Finance Act for 2004: These provisions apply to distributed income received with effect from 1 January 2005.

Article L432-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A repurchase agreement becomes binding on third parties with effect from delivery of the securities, certificates or bills, the terms and conditions of which are determined by decree.

Article L432-15

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 29 II 2, Official Journal of 16 May 2001)

At the time set for the repurchase, the assignor pays the agreed price to the assignee and the latter resells the securities, certificates or bills to the assignor; if the assignor fails to meet its obligation to pay the price of the repurchase, the securities, certificates or bills are definitively acquired by the assignee, and if the assignee should fail to meet its obligation to sell back the securities, certificates or bills, the amount of the assignment shall be definitively acquired by the assignor.

Article L432-17

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Whatever form it takes, the payment made to the assignee constitutes debt income. It is treated as interest for accounting purposes.

When the term of the repurchase agreement covers the date of payment of the income attaching to the pledged securities, certificates or bills, the assignee shall pay that income to the assignor, and the latter shall include it in the income of the same type in its accounts.

Article L432-18

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Following the signing of a repurchase agreement, the assignor shall enter the pledged securities, certificates or bills on the assets side of its balance sheet and the amount of its debt to the assignee on the liabilities side of its balance sheet; the said securities, certificates or bills and the said debt are shown individually under a special heading in the assignor's accounts. Moreover, the amount of the pledged securities, certificates or bills, allocated in accordance with the nature of the assets concerned, must be indicated in the documents appended to the annual accounts.

Article L432-19

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The pledged securities, certificates or bills are not shown on the assignee's balance sheet; the assignee shows the amount the assignor owes it on the assets side of its balance sheet.

When the assignee assigns securities, certificates or bills which it has itself received in pledge, it indicates on the liabilities side of its balance sheet the amount of that assignment representing its debt in respect of securities, certificates or bills, which, at the close of the accounting period, is valued at their market price. The differences in value recorded are used to determine the taxable profits for that accounting period.

When the assignee pledges securities, certificates or bills which it has itself received in pledge, it shows its debt to the new assignee on the liabilities side of its balance sheet.

The amounts representing the receivables and debts referred to in the present article are shown individually in the assignee's accounts.

Article L432-20

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The financial futures referred to in II of Article L. 211-1 are valid, even when they are the subject of special legislative provisions, provided that their cause and object are lawful. No person shall avail himself of Article 1965 of the Civil Code in order to elude the obligations resulting from forward transactions, even if those transactions could be cancelled upon payment of a simple difference.

Article L433-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In order to ensure equal treatment of shareholders and transparency of the markets, the General Regulations of the Financial Markets Council determine the rules for public offerings relating to financial instruments admitted to trading on a regulated market, as well as those referred to in Articles L. 433-3 and L. 433-4.

Article L433-1-1

(inserted by Order No. 2001-420 of 15 May 2001 Article 5, Official Journal of 16 May 2001)

The General Regulations of the Financial Markets Council also determine the conditions under which the Council may, when more than three months have elapsed since the filing of a draft takeover bid for a company's securities, and after asking the parties to submit their observations, set a date for definitive closure of all takeover bids relating to the said company's securities.

Article L433-2

(Order No. 2004-604 of 24 June 2004 Art. 53 Official Journal of 26 June 2004)

The suspension, while a takeover bid is in progress, of the powers granted to the Board of Directors by the General Meeting to increase the capital is governed by Article L. 225-129-3 of the Commercial Code reproduced hereunder:

"Art. L. 225-129-3: Any delegation of powers made by the General Meeting is suspended while a takeover bid to buy or exchange the company's securities is in progress, unless it takes place in the normal course of the company's business and its implementation is not likely to cause the takeover bid to fail."

Article L433-3

(Act No. 2003-706 of 1 August 2003 Art. 46 V 2 Official Journal of 2 August 2003)
(Act No. 2005-842 of 26 July 2005 Art. 34 Official Journal of 27 July 2005)

I. - The General Regulations of the Financial Markets Authority determine the circumstances in which any natural person or legal entity acting jointly or alone within the meaning of the provisions of Article L. 233-10 of the Commercial Code who/which comes to hold, directly or indirectly, a fraction of the capital or voting rights of a company whose shares are admitted to trading on a regulated market is required to inform the authority thereof immediately and to file a takeover bid with a view to acquiring a given portion of the company's securities; failing such filing, the securities that they hold over and above the fraction of the capital or voting rights are stripped of their voting rights.

II. - The General Regulations of the Financial Markets Authority also determine the circumstances in which an intention to acquire a block of securities conferring the majority of the capital shares or voting rights of a company whose shares are admitted to trading on a regulated market obliges the acquirer(s) to buy the securities which are then presented to them at that block's assignment rate or price.

III. - The Financial Markets Authority may stipulate that the rules referred to in II shall also apply, pursuant to terms and conditions determined by its General Regulations, to financial instruments traded on any unregulated financial instruments market, if the person managing that market so requests.

IV. - The General Regulations of the Financial Markets Authority also determine the circumstances in which any takeover bid filed pursuant to the provisions of Section 1 of the present chapter or the present section must, when the bid relates to a company which holds more than one third of the capital or voting rights of a French or foreign company having capital securities which are admitted to trading on a regulated market of a European Economic Area Member State or an equivalent market governed by a foreign legal system and constitute an essential asset of the company holding them, be accompanied by documents which prove that an irrevocable and fair takeover bid has been, or will be, filed for all of the controlled company's capital, or for a portion constituting an essential asset, by the opening date of the initial takeover bid at the latest.

Article L433-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - The General Regulations of the Financial Markets Council determine the conditions applicable to offer and withdrawal request procedures when the majority shareholder(s) of a company whose shares are admitted to trading on a regulated market or whose securities have ceased to be quoted on a regulated market jointly hold, within the meaning of the provisions of Article L. 233-10 of the Commercial Code, a given fraction of the voting rights, or when a company whose shares are admitted to trading on a regulated market takes the form of a partnership limited by shares.

II. - The General Regulations of the Financial Markets Council also determine the conditions under which, at the conclusion of an offer or withdrawal request procedure, securities not presented by the minority shareholders, provided that they do not represent more than 5% of the capital or voting rights, are transferred to the majority shareholders at their request, and the holders are duly compensated; the valuation of the securities, carried out in accordance with the objective methods used in the event of an assignment of assets, takes account, by means of a weighting appropriate to each case, of the value of the assets, the profits achieved, the market value, the existence of subsidiaries and the commercial prospects. The compensation is equal, per security, to the result of the aforementioned valuation or, if it is higher, to the price proposed at the time of the offer or the withdrawal request. The amount of the compensation due to unidentified holders is consigned.

Article L441-1

(Act No. 2001-1168 of 11 December 2001 Art. 27 6 Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Art. 46 V Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 51 Official Journal of 7 May 2005)

Market undertakings are commercial companies having as their principal activity the management of the operations of a regulated financial instruments market.

Whoever comes to own, either directly or indirectly, a fraction of the capital or voting rights of a market undertaking in excess of one tenth, one fifth, one third, one half, or two thirds is required to inform the Financial Markets Authority thereof pursuant to terms and conditions determined by decree. In the event of a breach of this reporting obligation and without prejudice to the provisions of Article L. 233-14 of the Commercial Code, the Financial Markets Authority or any shareholder may ask the judge to suspend exercise of the voting rights attached to the market undertaking's shares which have not been regularly declared until the situation is regularised.

Following an acquisition or extension of holdings, the Minister for the Economy may, in the interest of the proper functioning of a regulated market and without prejudice to the provisions of Article L. 233-14 of the Commercial Code, ask the judge to suspend exercise of the voting rights attached to the shares of the market undertaking directly or indirectly held until such time as the situation is regularised. On a proposal from the Financial Markets Authority and after consultation with the Bank of France, the Minister may also review the regulated market's recognition or withdraw it, as provided for in Article L. 421-1.

Article L441-3

(inserted by Order No. 2001-1168 of 11 December 2001 Article 27 8, Official Journal of 12 December 2001)

The executives and employees of market undertakings are bound by professional secrecy.

Article L442-2

(Act No. 2001-1168 of 11 December 2001 Art. 27 10 Official Journal of 12 December 2001)
(Order No. 2004-482 of 3 June 2004 Art. 2 Official Journal of 5 June 2004)

Only the following may belong to the clearing houses:

1. Credit institutions established in France;

2. Investment firms established in France;

3. Legal entities whose members or partners are indefinitely and jointly liable for their debts and commitments, provided that those members or partners are institutions or companies indicated in 1 and 2;

4. Legal entities established in France having as their primary or sole purpose the clearing of financial instruments;

5. As stated in the General Regulations of the Financial Markets Authority, credit institutions, investment firms and legal entities which are not established in France and which have as their primary or sole purpose the clearing of financial instruments.

The entities referred to in 1 to 4 are subject, relative to the clearing of financial instruments, to the legislative and regulatory obligations and the supervisory and penalty rules stipulated for investment service providers by the present code. The legal entities referred to in 1 and 2 are subject to authorisation issued upon their approval. The legal entities referred to in 3 and 4 are subject to the rules of approval laid down for investment firms by the present code.

The entities referred to in 5 must be subject in their country of origin to rules applicable to clearing and supervision equivalent to those applied in France. The Financial Markets Authority exercises the powers and sanctions in regard to those entities which the present code lays down for investment service providers, taking into account the supervision provided by the proper authorities of each country concerned.

CHAPTER II
Clearing Houses

Articles L442-1 to L442-9

Article L442-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 9, Official Journal of 12 December 2001)

The clearing houses oversee the positions, the margin calls and, when applicable, the automatic settlement of positions. They must have credit-institution status. Their operational rules must have been approved by the Financial Markets Council.

The relations between a clearing house and a person referred to in Article L. 442-2 are of a contractual nature.

Article L442-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 10, Official Journal of 12 December 2001)

Only the following may belong to the clearing houses:

1. Credit institutions established in France;

2. Investment firms established in France;

3. Legal entities whose members or partners are indefinitely and jointly liable for their debts and commitments, provided that those members or partners are institutions or companies indicated in 1 and 2;

4. Legal entities established in France having as their primary or sole purpose the clearing of financial instruments;

5. As stated in the General Regulations of the Financial Markets Council, credit institutions, investment firms and legal entities which are not established in France and which have as their primary or sole purpose the clearing of financial instruments.

The entities referred to in 1, 2 and 4 of the present article are subject, in relation to their clearing activity, to the approval rules of the activities, control and sanctions schedule determined by the present Code for investment service providers. Moreover, the institutions referred to in 4 are subject to the authorisation rules that the present Code lays down for investment firms.

The entities referred to in 5 must be subject in their country of origin to rules applicable to clearing and supervision equivalent to those applied in France. The Financial Markets Council exercises the powers and sanctions in regard to those entities which the present Code lays down for investment service providers, taking into account the supervision provided by the relevant authorities of each country concerned.

Article L442-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The executives and employees of clearing houses are bound by professional secrecy.

Article L442-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The clearing houses may decide, on a non-discriminatory basis, that their members are del credere agents in regard to the principals whose accounts they hold. Del credere status is necessary in order for the financial instruments markets to be recognised as regulated markets within the meaning of Article L. 421-1.

Article L442-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In all cases, the direct clearing members of a clearing house undertake, in relation to the clearing house, to meet all the obligations deriving from the transactions entered in their accounts on behalf of third parties. Payment of the sums thereby due cannot be deferred. Any contrary provision is deemed not to exist.

Article L442-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Regardless of the nature thereof, deposits made by principals with investment service providers or members of a clearing house, or made by such members with a clearing house to cover or guarantee positions taken on a financial instruments market, are transferred with full title to the service provider or the member, or to the clearing house concerned, as soon as they are made, for the purpose of being settled, on the one hand, against the debit balance established upon automatic settlement of the positions and, on the other hand, against any other sum due to the service provider or the member, or to that clearing house.

No creditor of a member of a clearing house, a service provider referred to in the previous paragraph, or, if applicable, the clearing house itself, may avail himself of any right whatsoever over such deposits, even on the basis of Part I or Part II of Book VI of the Commercial Code.

Article L442-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of the second paragraph of Article L. 442-6 also apply to any creditor of a principal, any representative of a principal or of a member of a clearing house, and any court-appointed administrator appointed within the framework of Part I or Part II of Book VI of the Commercial Code.

The prohibitions referred to in the first paragraph of the present article and the second paragraph of Article L. 442-6 are also applicable to legal proceedings and amicable procedures instituted outside France which are equivalent or similar to those referred to in Part I and Part II of Book VI of the Commercial Code.

Article L442-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the event of a joint action for liquidation of assets being instituted against a member of a clearing house or of any other instance of default on the part of such a member:

1. The clearing house may have the hedges and guarantee deposits made with that member which relate to the positions taken by non-defaulting principals transferred to another member;

2. The clearing house may transfer to another member the positions registered with it on behalf of that member's principals, along with the hedges and guarantee deposits associated therewith.

Article L442-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Clearing house members cannot raise professional secrecy in connection with inquiries made by the clearing houses in relation to their supervision of the positions, or concerning the identity, positions and solvency of the principals whose accounts they hold.

Article L451-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Without prejudice to the provisions relating to public issues, the reporting obligations of companies whose shares are admitted to trading on a regulated market are laid down in Articles L. 232-7 and L. 232-8 of the Commercial Code, reproduced hereunder:

"Article L. 232-7. - Companies whose shares are admitted to trading on a regulated market are required to append to their annual accounts an inventory of the transferable securities held in their portfolio at the close of the accounting period.

They also append a table relating to the allotment and application of the distributable sums to be proposed at the general meeting.

Such companies, with the exception of open-end investment companies, are also required, within four months of the close of the first half-year of the accounting period at the latest, to draw up and publish a report on the figures relating to the company's turnover and results for the previous half-year and describing its business during that period and its foreseeable development during the accounting period, as well as important events arising during the previous half-year. The compulsory headings in the half-yearly report and the arrangements for its publication are determined in a Conseil d'Etat decree. The true and fair nature of the information contained in the half-yearly report is verified by the auditors."

"Article L. 232-8. - When half of their capital belongs to one or more companies whose shares are admitted to trading on a regulated market, companies whose shares are not quoted and those which are not joint-stock companies are required, if their balance-sheet total exceeds 3,000,000 euros or if the inventory value or market value of their portfolio exceeds 300,000 euros, to append to their annual accounts an inventory of the transferable securities held in the portfolio at the close of the accounting period."

Article L451-1-1

(inserted by Act No. 2005-842 of 26 July 2005 Art. 32 I Official Journal of 27 July 2005)

Issuers whose financial instruments other than debt instruments having a nominal value greater than 50,000 euros, or money market instruments within the meaning of Directive 2004/39/EC of the Parliament and Council of 21 April 2004 relating to financial instruments markets, with a term shorter than twelve months, are admitted to trading on a regulated market of a European Economic Area Member State, come within the scope of the Financial Markets Authority for the certificate referred to in Article L. 621-8 and must file with the Financial Markets Authority, as stipulated in its General Regulations, after publication of their annual accounts, a document containing or referring to all the information they have published or made public in the European Economic Area or a third country during the previous twelve months in order to meet their legislative or regulatory obligations applicable to financial instruments, issuers of financial instruments and financial instruments markets.

Article L451-1-2

(inserted by Act No. 2005-842 of 26 July 2005 Art. 32 I Official Journal of 27 July 2005 effective 20 January 2007)

I. - French issuers whose capital securities or debt instruments having a nominal value below 1,000 euros which are not money market instruments within the meaning of the aforementioned Directive 2004/39/EC of the Parliament and Council of 21 April 2004 and have a term shorter than twelve months are admitted to trading on a regulated market of a European Economic Area Member State and publish and file with the Financial Markets Authority an annual financial report within four months of the close of their accounting period.

The said annual financial report is made available to the public for five years as provided for in the General Regulations of the Financial Markets Authority. It includes the annual accounts, the consolidated accounts where applicable, a management report, a declaration from the natural persons assuming responsibility for those documents and the report on the aforementioned accounts from the auditors or statutory auditors.

II. - The General Regulations of the Financial Markets Authority also indicate the cases in which issuers other than those referred to in I are subject to the obligation laid down in I. Those issuers are:

1 French issuers whose securities giving access to the capital within the meaning of Article L. 212-7, debt instruments giving entitlement to buy or sell any other security or giving rise to a cash settlement, including warrants or debt instruments having a nominal value greater than or equal to 1,000 euros, which are not money market instruments within the meaning of the aforementioned Directive 2004/39/EC of the Parliament and Council of 21 April 2004 and have a term shorter than twelve months, are admitted to trading on a regulated market of a European Economic Area Member State;

2 Issuers whose registered office is established outside France whose securities referred to in 1 are admitted to trading on a French regulated market;

3 Issuers whose registered office is established outside the European Economic Area whose securities referred to in 1 are admitted to trading on a regulated market of a European Economic Area Member State.

III. - Issuers referred to in I and II which are subject to the obligations indicated in I and whose capital securities or debt instruments are admitted to trading on a regulated market of a European Economic Area Member State also publish and file with the Financial Markets Authority a half-yearly financial report within two months of the end of the first half-year of their accounting period.

The said half-yearly financial report includes summary accounts for the half-year, presented in consolidated form where applicable, a half-yearly activities report, a declaration from the natural persons assuming responsibility from those documents and the report on the limited examination of the aforementioned accounts from the auditors or statutory auditors.

IV. - Issuers referred to in I and II which are subject to the obligations indicated in I and whose capital securities or debt instruments are admitted to trading on a regulated market of a European Economic Area Member State also publish and file with the Financial Markets Authority a quarterly financial statement within forty-five days of the first and third quarters of their accounting period.

The said financial statement includes:

1 An explanation of the major transactions and events which took place during the period in question and an explanation of their impact on the financial situation of the issuer and the entities it controls;

2 A general description of the financial situation and results of the issuer and the entities it controls during the period in question;

3 The net amount of the turnover for the last quarter per economic sector and, where applicable, for each of the preceding quarters of the current accounting period and for the period as a whole, together with an indication of the corresponding turnover figures for the previous accounting period. The said amount is established on an individual or consolidated basis, as applicable.

V. - Without prejudice to the rules of the Commercial Code applicable to the annual accounts, the consolidated accounts, the management report, the half-yearly activities report and the auditors' reports, the General Regulations of the Financial Markets Authority stipulate the content of the documents referred to in I, III and IV.

VI. - The issuers referred to in I and II which are subject to the obligations laid down in I shall inform the Financial Markets Authority and the persons who manage regulated markets within the European Economic Area on which their securities are admitted to trading of any plan to amend their articles of association within a time limit determined by the General Regulations of the Financial Markets Authority.

VII. - Without prejudice to the obligations laid down by the Commercial Code, the General Regulations of the Financial Markets Authority determine the terms of publication, filing and custody for the documents and information

referred to in the present article.

VIII. - The Financial Markets Authority may exempt issuers whose registered office is established outside the European Economic Area from the obligations laid down in the present article if it deems the obligations they are subject to equivalent thereto. The Financial Markets Authority regularly draws up and publishes a list of the third-party States whose legislative or regulatory provisions are deemed equivalent.

Article L451-1-3

(inserted by Act No. 2005-842 of 26 July 2005 Art. 32 I Official Journal of 27 July 2005 effective 20 January 2007)

The Financial Markets Authority ensures that issuers whose registered office is established outside France who are not subject to the obligations laid down in Article L. 451-1-2 and whose securities referred to in I and II of that same article are admitted to trading only on a French regulated market publish the regulated information, within the meaning of Directive 2004/109/EC of the European Parliament and Council of 15 December 2004, on harmonisation of the transparency obligations relating to information on issuers whose transferable securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, pursuant to the terms and conditions laid down by the General Regulations of the Financial Markets Authority.

Article L451-1-4

(inserted by Act No. 2005-842 of 26 July 2005 Art. 32 I Official Journal of 27 July 2005 effective 20 January 2007)

The obligations laid down in Article L. 451-1-2 do not apply to the following issuers:

1 European Economic Area Member States and their territorial authorities;

2 The European Central Bank and the central banks of the States referred to in 1;

3 International public sector organisations which one of the States referred to in 1 is a member of;

4 Issuers of debt instruments unconditionally and irrevocably guaranteed by the State or by a French territorial authority;

5 Issuers having debt instruments with a nominal value greater than or equal to 50,000 euros and no other financial instrument referred to in I and II of Article L. 451-1-2 admitted to trading on a regulated market.

Article L451-1-5

(inserted by Act No. 2005-842 of 26 July 2005 Art. 32 I Official Journal of 27 July 2005 effective 20 January 2007)

When the Financial Markets Authority is not the authority responsible for verifying compliance with the reporting obligations stipulated in Articles L. 451-1-1 and L. 451-1-2 and it establishes that an issuer has failed to comply with its reporting obligations, it informs the supervisory authority of the relevant European Economic Area Member State which is responsible for verifying such compliance.

If, despite the measures taken by the said authority, or on account of their inadequacy, the issuer or the financial institutions handling investment remain in breach of the legislative or regulatory provisions applicable thereto, the Financial Markets Authority may, after informing the supervisory authority responsible for monitoring the periodic reporting obligations, take all measures necessary to protect investors.

The Financial Markets Authority informs the European Commission of such measures.

SECTION II
Reporting Obligations relating to Equity Investments — Article L451-2

Article L451-2

(Act No. 2001-420 of 15 May 2001 Art. 119 3 and Art. 121 Official Journal of 16 May 2001)
(Act No. 2003-7 of 3 January 2003 Art. 50 II Official Journal of 4 January 2003)
(Order No. 2004-604 of 24 June 2004 Art. 51 XV Official Journal of 26 June 2004)
(Act No. 2004-1343 of 9 December 2004 Art. 78 XXVII Official Journal of 10 December 2004)

The rules relating to the reporting of significant equity investments are laid down in Articles L. 233-7 to L. 233-14 of the Commercial Code, reproduced hereunder:

"Art. L. 233-7 - When the shares of a company having its registered office on the territory of the Republic are entered in the books of an authorised intermediary as provided for in Article L. 211-4 of the Monetary and Financial Code, any natural person or legal entity acting jointly or alone who/which comes to own a number of shares representing more than one twentieth, one tenth, one fifth, one third, one half, or two thirds of its capital or voting rights shall inform the company, within a time limit determined in a Conseil d'Etat decree, of the total number of shares that he/it owns, as soon as the participation threshold is exceeded.

He/it shall also inform the Financial Markets Authority, within five trading days of the participation threshold being exceeded, when the shares of the company are admitted to trading on a regulated market. This information is made known to the public as determined in the General Regulations of the Financial Markets Authority.

The information referred to in the two previous paragraphs is also provided within the same time limit when the equity interest falls below the thresholds set in the first paragraph.

The party required to provide the information referred to in the first paragraph specifies the number of securities it holds which will eventually give access to the capital, as well as the voting rights attached thereto.

The company's articles of association may provide for an additional reporting obligation relating to the holding of fractions of the capital or voting rights below the one twentieth referred to in the first paragraph. The obligation relates to the holding of each of those fractions, which cannot be below 0.5% of the capital or voting rights.

In the event of the reporting obligation referred to in the previous paragraph not being complied with, the company's articles of association may provide for the provisions of the first two paragraphs of Article L. 233-14 to be applicable only

if requested, and duly recorded in the minutes of the General Meeting, by one or more shareholders holding a fraction of the capital or voting rights of the issuing company at least equal to the smallest capital holding that must be declared. The said fraction shall nevertheless not be greater than 5%.

The person required to provide the information contained in the first paragraph is also required to declare, whenever the thresholds of one tenth or one fifth of the capital or voting rights are exceeded, the objectives that it intends to pursue during the coming twelve months. The said declaration shall specify whether the buyer is acting alone or jointly, whether it envisages making further acquisitions, whether it is seeking to acquire a controlling interest in the company, to seek directorships for itself or for one or more other persons, or seats on the Executive Board or the Supervisory Board. It is sent to the company whose shares have been acquired and to the Financial Markets Authority within ten trading days. If that intention should change, and this can occur only in the event of major changes in the environment, situation or shareholder base of the persons concerned, a new declaration must be signed and made known to the public in the same way."

"Article L. 233-8. - All joint-stock companies must inform their shareholders, within fifteen days at the latest of the ordinary General Meeting, of the total number of voting rights existing on that date. If, between two ordinary General Meetings, the number of voting rights varies by a percentage determined by order of the Minister for the Economy in relation to the number previously declared, the company, on becoming aware thereof, must inform its shareholders and, if its shares are admitted to trading on a regulated market, the Financial Markets Authority, of the new number to be noted. This information is made known to the public as determined in the General Regulations of the Financial Markets Authority."

"Art. L. 233-9. - The following are treated as shares or voting rights owned by the person required to provide the information referred to in the first paragraph of Article L. 233-7:

1 Shares or voting rights owned by other persons on behalf of that person;

2 Shares or voting rights owned by the companies which control that person within the meaning of Article L. 233-3;

3 Shares or voting rights owned by a third party with whom that person acts jointly;

4 Shares or voting rights which that person or a person referred to in 1 to 3 above is entitled to acquire on its own initiative by virtue of an agreement."

"Art. L. 233-10 - I. - Persons who have entered into an agreement with a view to buying or selling voting rights, or with a view to exercising voting rights in order to implement a common policy in regard to the company are considered to be acting jointly.

II. - Such an agreement is presumed to exist:

1 Between a company, the chairman of its Board of Directors and its general managers or the members of its Executive Board or its executives;

2 Between a company and the companies it controls within the meaning of Article L. 233-3;

3 Between companies controlled by the same person(s);

4 Between the members of a simplified joint-stock company in regard to the companies it controls.

III. - Persons acting jointly are jointly and severally liable for the obligations imposed on them by laws and regulations.

"Art. L. 233-11 - Any clause in an agreement which provides for preferential conditions of assignment or acquisition of shares admitted to trading on a regulated market representing at least 0.5% of the capital or voting rights of the company which issued those shares must be sent to the company and to the Financial Markets Authority within five trading days of the signing of the agreement or amendment introducing the said clause. Failing such transmission the effects of that clause are suspended and the parties are released from their commitments while a public offering is in progress.

The company and the Financial Markets Authority must also be informed of the date on which the clause ceases to apply.

Clauses in agreements entered into before the date of publication of Act No. 2001-420 of 15 May 2001, relating to the new economic regulations, which have not been submitted to the Financial Markets Authority by that date must be sent to it within six months in the same way and with the same effects as those referred to in the first paragraph.

The information referred to in the preceding paragraphs is made known to the public as determined in the General Regulations of the Financial Markets Authority."

"Art. L. 233-12 - When a company is directly or indirectly controlled by a joint-stock company, it shall notify the latter and each company participating in that control of the amount of the equity interests it directly or indirectly holds in them, and likewise any variations in that amount.

Notification is given either within one month of the day on which the acquisition became known to the company for securities it held before that date, or on the day of execution for subsequent acquisitions or disposals.

"Art. L. 233-13. - Based on the information received pursuant to Articles L. 233-7 and L. 233-12, the report presented to the shareholders on the business during the accounting period indicates the identity of any natural person or legal entity who/which directly or indirectly holds more than one twentieth, one tenth, one fifth, one third, one half, or two thirds of the share capital or the voting rights at General Meetings. It also indicates any changes which took place during that period. It indicates the names of the controlled companies and the portion of the company's capital held by them. This is noted, if applicable, in the auditors' report."

"Art. L. 233-14 - If they have not been properly declared as stipulated in the first and second paragraphs of Article L. 233-7, shares in excess of the fraction which should have been declared, when they are entered in the books of an authorised intermediary as provided for in Article L. 211-4 of the Monetary and Financial Code, are stripped of the voting right attached to them for any meeting of shareholders held within two years of the date of effective notification.

In the same circumstances, the voting rights attached to those shares which have not been properly declared cannot be exercised or delegated by the defaulting shareholder.

A shareholder who has not made the declaration referred to in the seventh paragraph of Article L. 233-7 is stripped of the voting rights attached to the securities exceeding the fraction of one tenth or one fifth referred to in that same paragraph for any meeting of shareholders held within two years of the date of effective notification.

The Commercial Court having jurisdiction at the place where the company has its registered office may, having sought the opinion of the Public Prosecutor, and at the request of the company's chairman, a shareholder or the Financial Markets Authority, order a total or partial suspension of voting rights, for a period not exceeding five years, against any shareholder who has not made the declarations referred to in Article L. 233-7 or who has not respected the content of the declaration referred to in the seventh paragraph of that article during the twelve-month period following its publication as determined in the General Regulations of the Financial Markets Authority."

SECTION III

Reporting Obligations relating to the Redemption of Shares — Article L451-3

Article L451-3

(inserted by Act No. 2005-842 of 26 July 2005 Art. 26 II Official Journal of 27 July 2005)

The share redemptions referred to in Article L. 225-209 of the Commercial Code are not subject to the provisions of VII of Article L. 621-8 of the present code.

Under terms and conditions laid down in the General Regulations of the Financial Markets Authority, any company having shares which are admitted to trading on a regulated market which wishes to redeem its own capital securities shall inform the market prior to so doing.

CHAPTER II

Investors' Defence Associations — Articles L452-1 to L452-4

Article L452-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 126 I, Official Journal of 2 August 2003)

Properly declared associations having as their explicit purpose, defined in their articles of association, the defence of investors in transferable securities or financial products may bring legal proceedings before any jurisdiction, even through the filing of civil actions, in connection with facts which cause direct or indirect damage to the interests of investors in general or to certain categories of investors.

Those associations are:

- approved associations, as determined by decree having sought the opinion of the Public Prosecutor and the Financial Markets Authority, when they can prove six months' existence and, throughout that same period, at least two hundred members paying their contributions individually and when their executives meet conditions of respectability and competence determined by decree;

- associations which meet the criteria for holding voting rights defined in Article L. 225-120 of the Commercial Code, if they have sent their articles of association to the Financial Markets Authority.

When a practice contrary to the laws or regulations is likely to jeopardize the rights of investors, the shareholders' associations referred to in the first paragraph may apply to the court for an order compelling the person responsible to comply with those provisions and end the irregularity or eliminate its effects.

The application is brought before the presiding judge of the tribunal de grande instance having jurisdiction at the place where the company has its registered office, who gives an immediately enforceable summary ruling. The presiding judge is competent to hear and determine objections of illegality. He may automatically take any protective measure and impose a coercive fine payable to the Trésor public for execution of his order.

Article L452-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 126 II, Official Journal of 2 August 2003)

If, in their capacity as investors, several natural persons have suffered individual damage having a common origin through the actions of the same person, any association referred to in Article L. 452-1 may, if it has been instructed by at least two of the investors concerned, sue for damages before any court on behalf of those investors.

The power so to act cannot be solicited via a public appeal on television or radio, nor via a poster campaign, tracts or personalised letters. It must be given in writing by each investor.

However, if an approved association brings an action for damages before the civil or commercial courts pursuant to the third paragraph of Article L. 452-1, the presiding judge of the tribunal de grande instance or the Commercial Court, as applicable, may issue a summary order authorising it to solicit a power of attorney from the shareholders empowering it, at its own expense, to act on their behalf and have recourse to the advertising channels referred to in the previous paragraph.

Without prejudice to the provisions of Articles L. 612-1 to L. 612-5 of the Commercial Code, the associations referred to in the previous paragraph draw up a balance sheet, a profit and loss account and an appendix each year, the scope and presentation of which are determined by decree, which are approved by the meeting of members. When the association brings an action in accordance with the previous paragraph, it sends those documents to the presiding judge.

Article L452-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any investor having given his agreement, as provided for in Article L. 452-2, for the bringing of an action before a criminal court is considered in those circumstances to be exercising the rights a private party is granted under the Code of Criminal Proceedings. All notifications concerning the investor shall, however, be sent to the association.

Article L452-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

An association bringing a legal action pursuant to Articles L. 452-2 and L. 452-3 may sue for damages before the investigating judge or the relevant court having jurisdiction over the registered office or domicile of the person against whom the proceedings are brought, or, failing that, over the place where the first offence was committed.

Part VI
Criminal Provisions — **Articles L461-1 to L466-1**

CHAPTER I
Offences relating to Public Issues — Article L461-1

Article L461-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Violations of the prohibition on European Economic Interest Groups making public issues are punished as determined in Article L. 252-10 of the Commercial Code.

CHAPTER II
Offences relating to Regulated Markets — Articles L462-1 to L462-2

Article L462-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

Whoever brings any price to the attention of the public which is not taken from the official stock-exchange list or from a list established as determined by decree, by means of publication, distribution of circulars or otherwise, shall be punished by two years' imprisonment and a fine of 6,000 euros.

The same sentence shall apply to whoever communicates a price without expressly indicating the date and the reference of the stock-exchange list or other list from which the said price is taken.

Article L462-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties applicable to advertising for subscriptions to transferable securities are laid down in Article L. 245-2 of the Commercial Code.

CHAPTER III
Offences relating to Trading in Financial Instruments — Articles L463-1 to L463-2

Article L463-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties imposed by Article 314-1 of the Penal Code also apply in the event of the seller misappropriating, dissipating or pledging securities sold as provided for in Article L. 432-1 to the detriment of the buyer.

Article L463-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties imposed by Articles 313-1, 313-7 and 313-8 of the Penal Code also apply to whoever fails to comply with the prohibition imposed by Article L. 432-4.

CHAPTER IV
Offences relating to Market Undertakings and Clearing Houses — Articles L464-1 to L464-2

Article L464-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties imposed by Article 226-13 of the Penal Code also apply in the event of any executive or employee of a clearing house breaching the professional secrecy instituted by Article L. 442-3, without prejudice to the provisions of Article 226-14 of the Penal Code.

Article L464-2

(inserted by Order No. 2001-1168 of 11 December 2001 Article 27 11, Official Journal of 12 December 2001)

The penalties imposed by Article 226-13 of the Penal Code also apply in the event of any executive or employee of

a market undertaking breaching the professional secrecy instituted by Article L. 441-3, without prejudice to the provisions of Article 226-14 of the Penal Code.

Article L465-1

(Act No. 2001-1062 of 15 November 2001 Art. 33 VIII Official Journal of 16 November 2001)
(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2005-842 of 26 July 2005 Art. 30 III Official Journal of 27 July 2005)

Executives of a company referred to in Article L. 225-109 of the Commercial Code, or persons who, through the practice of their profession or the performance of their functions, obtain privileged information concerning the prospects or the situation of an issuer whose securities are admitted to trading on a regulated market or the likely performance of a financial instrument admitted to trading on a regulated market, either directly or through an intermediary, and who carry out or facilitate one or more transactions before the public has knowledge of that information shall incur a penalty of two years' imprisonment and a fine of 1,500,000 euros, which amount may be increased to a figure representing up to ten times the amount of any profit realised and shall never be less than the amount of that same profit.

Whoever, through the practice of his profession or the performance of his functions, obtains privileged information concerning the prospects or the situation of an issuer whose securities are admitted to trading on a regulated market or the likely performance of a financial instrument admitted to trading on a regulated market, and communicates that information to a third party outside the normal framework of his profession or his functions shall incur a penalty of one year's imprisonment and a fine of 150,000 euros.

Any person, other than those referred to in the previous two paragraphs, who knowingly obtains privileged information concerning the situation or the prospects of an issuer whose securities are admitted to trading on a regulated market or the likely performance of a financial instrument admitted to trading on a regulated market and directly or indirectly communicates that information, or allows it to be communicated, to a third party before the public has knowledge thereof, shall incur a penalty of one year's imprisonment and a fine of 150,000 euros. If the information in question is used in the commission of a crime or an offence, the sentence shall be increased to seven years' imprisonment and a fine of 1,500,000 euros if the amount of the profit realised is below that figure.

Article L465-2

(Act No. 2005-842 of 26 July 2005 Art. 30 IV Official Journal of 27 July 2005)

The penalties imposed by the first paragraph of Article L. 465-1 also apply to whoever carries out or attempts to carry out, directly or through an intermediary, a manoeuvre intended to impede the normal operation of a regulated market by misleading others.

The penalties imposed by the first paragraph of Article L. 465-1 apply likewise to whoever

publicly disseminates, via whatever channel or means, any false or deceptive information concerning the prospects or the situation of an issuer whose securities are traded on a regulated market, or the likely performance of a financial instrument admitted to trading on a regulated market, which might affect the price thereof.

Article L465-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Legal entities may be declared criminally liable for the offences indicated in Articles L. 465-1 and L. 465-2, as stated in Article 121-2 of the Penal Code.

The penalties thus incurred by the legal entities are:

1 A fine as provided for in Article 131-38 of the Penal Code. 1 A fine as provided for in Article 131-38 of the Penal Code.

2 The penalties referred to in Article 131-39 of that same Code.

The disqualification referred to in 2 of Article 131-39 of the Penal Code relates to the activity in connection with which, or in parallel with which, the offence was committed.

Article L465-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2000 effective 1 January 2002)

The penalties applied to offences relating to the reporting obligation for significant equity investments are determined by 1 and 2 of I and III of Article L. 247-1 and by Article L. 247-2 of the Commercial Code, reproduced hereunder:

"I. - Any chairman, director, general manager or executive of any company who commits the following offences shall incur a penalty of two years' imprisonment and a fine of 9,000 euros:

1 Failing to indicate in the annual report presented to the members concerning the activities during the accounting period any equity investment in a company having its registered office in France which represents more than one twentieth, one tenth, one fifth, one third, one half or two thirds of the capital or voting rights at the general meetings of that company, or the acquisition of such a company;

2 Failing, in that same report, to give an account of the business and results of the whole company, its subsidiaries and the companies it controls, broken down by economic sector;

III. - The fact of the auditor failing to include in his report the references referred to in 1 of I of the present article shall incur the sentence referred to in I.

Article L. 247-2. - I. - A chairman, director, Executive Board member, executive or general manager of a company, and any natural person, who fails to comply with the reporting obligations for which the company is responsible pursuant to Article L. 233-7 on account of the equity interests it holds, shall incur a fine of 18,000 euros.

II. - The same penalty shall apply to a chairman, director, Executive Board member, executive or general manager of a company who fails to make the notifications which that company is required to make pursuant to Article L. 233-12 on account of the equity interests it holds in the joint-stock company which controls it.

III. - The same penalty shall apply to a chairman, director, Executive Board member, executive or general manager of a company who fails to refer, in the report presented to the shareholders on the activities during the accounting period, to the identity of persons who hold significant equity interests in the company or to any changes which occurred during that accounting period in the names of the controlled companies and the portion of the company's capital that those companies hold, as determined in Article L. 233-13.

IV. - The fact of the auditor failing to include in his report the references referred to in III shall incur the same penalty.

V. - For companies which make public offerings, proceedings are instituted after the opinion of the Stock Exchange Commission has been sought."

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

CHAPTER VI
Common Provisions — Article L466-1

Article L466-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The courts which deal with proceedings relating to offences committed by companies which make public offerings or offences committed in connection with stock-market transactions, may, at any stage during the proceedings, request the opinion of the Stock Exchange Commission. The said opinion must be requested when the proceedings are instituted pursuant to Article L. 465-1.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

BOOK V
Service Providers — Articles L511-1 to L500-1

Article L500-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 1 Official Journal of 7 May 2005)

I. - No person shall, either directly or indirectly, for his own account or on behalf of another, if he has been the subject of a final judgement within the previous ten years:

1 Manage or administer, or be a member of the collegiate organ of control, or the Board of Directors, of an entity referred to in Articles L. 213-8, L. 511-9, L. 517-1, L. 517-4, L. 531-1, L. 542-1 and L. 543-1, or have signing authority on behalf of that entity;

2 Practice a profession or conduct business referred to in Articles L. 341-1, L. 519-1, L. 520-1, L. 541-1 and L. 550-1.

II. - The sentences referred to in I are:

1 For a crime;

2 A term of imprisonment without remission or of at least six months suspended for:

a) An offence covered by Part I of Book III of the Penal Code or an offence covered by special laws punished with the penalties imposed for fraud and breach of trust;

b) Possession or handling of stolen goods or a similar offence covered by Section 2 of Chapter 1 of Part II of Book III of the Penal Code;

c) Money laundering;

d) Bribery or acceptance or solicitation of bribes, influence peddling, misappropriation and fraudulent conversion of

property;

e) Forgery, falsification of securities or other fiduciary instruments issued by the public authorities, falsification of marks of authority;

f) Participation in an association of criminals;

g) Drug trafficking;

h) Procuring or an offence covered by Sections 2 and 2 bis of Chapter V of Part II of Book II of the Penal Code;

i) An offence covered by Section 3 of Chapter V of Part II of Book II of the Penal Code;

j) A violation of the commercial companies legislation set out in Part IV of Book II of the Commercial Code;

k) Bankruptcy;

l) Making loans at usurious rates of interest;

m) An offence covered by the Act of 21 May 1836 prohibiting lotteries, or the Act of 15 June 1907 regulating gaming in clubs and the casinos of seaside resorts, thermal spas and health resorts, or Act No. 83-628 of 12 July 1983 relating to games of chance;

n) An offence against the laws and regulations relating to foreign financial dealings;

o) Tax fraud;

p) An offence covered by Articles L. 121-6, L. 121-28, L. 122-8 to L. 122-10 and L. 213-1 to L. 213-5, L. 217-1 to L. 217-3, L. 217-6 and L. 217-10 of the Consumer Code;

q) An offence covered by this code;

r) An offence covered by Articles L. 324-9, L. 324-10 and L. 362-3 of the Labour Code;

s) Violations of the automated processing systems referred to in Chapter III of Part II of Book III of the Penal Code;

t) An offence against the insurance law or regulations;

3 Dismissal from functions as a public official or law official.

III. - The incapacity referred to in the first paragraph of I applies to any person in respect of whom a final measure of personal bankruptcy or other final measure of prohibition provided for in Book VI of the Commercial Code has been declared.

IV. - Without prejudice to the provisions of the second paragraph of Article 132-21 of the Penal Code, the court handing down the decision giving rise to such incapacity may reduce the term thereof.

V. - Persons performing functions, or engaged in a business or profession, referred to in I who are sentenced as provided for in II and III must cease their activities within one month of the date on which the court decision became final. This period may be reduced or eliminated by the court handing down the decision.

VI. - When a final judgement is pronounced by a foreign court for an offence which, under French law, constitutes a crime or an offence referred to in II, the criminal court of the convicted person's domicile shall declare, at the request of the Public Prosecutor and after verifying the correctness and legality of the conviction and having duly heard the person concerned in closed session, that there are grounds for applying the incapacity referred to in I.

The said incapacity also applies to any undischarged personal bankrupt so declared by a foreign court whose adjudication in bankruptcy has been declared enforceable in France. In this specific instance only, the Public Prosecutor may enter the application for an enforcement order before the tribunal de grande instance of the convicted person's domicile.

VII. - The fact of a person not being subject to the incapacity referred to in the present article does not preclude verification, by the proper authority, of his compliance with the approval criteria or his authorisation to practise.

Article L511-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Credit institutions are legal entities whose customary business activity is the carrying out of banking transactions within the meaning of Article L. 311-1. They may also carry out transactions related to their activities within the meaning of Article L. 311-2.

Article L511-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Credit institutions may, moreover, under the terms laid down by the Minister for the Economy, acquire and hold equity interests in companies which already exist or are in the process of being formed.

Article L511-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Credit institutions may only engage regularly in business activities other than those referred to in Articles L. 311-1, L. 311-2 and L. 511-2 in circumstances specified by the Minister for the Economy.

Such activities must, in any event, be of limited volume proportionate to all the institution's regular activities and must not impede, restrict or distort free competition on the relevant market.

Article L511-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 24 I, Official Journal of 2 August 2003)

When mergers or planned mergers which relate, directly or indirectly, to a credit institution or an investment firm are submitted to the Competition Council pursuant to Article L. 430-5 of the Commercial Code, the Council seeks the opinion of the Credit institutions and Investment Companies Committee. The Competition Council duly informs the Credit institutions and Investment Companies Committee of any such case which is submitted to it. The Credit institutions and Investment Companies Committee sends its opinion to the Competition Council within one month of receiving that submission. The opinion of the Credit institutions and Investment Companies Committee is published as provided for in Article L. 430-10 of the Commercial Code.

Articles L. 420-1 to L. 420-4 of the Commercial Code apply to credit institutions for their banking transactions and their related transactions indicated in Article L. 311-2. Violations of those provisions are prosecuted under the conditions laid down in Articles L. 442-5, L. 443-2, L. 443-3, L. 462-5 to L. 462-8, L. 463-1 to L. 463-7, L. 464-1 to L. 464-8, and L. 470-1 to L. 470-8 of the Commercial Code. The notification of causes of action provided for in Article L. 463-2 of that same code is sent to the Banking Commission, which gives its opinion within two months. In the event of the Competition Council imposing a penalty upon completion of the procedure referred to in Articles L. 463-2, L. 463-3 and L. 463-5 of the Commercial Code, it shall indicate, if applicable, why it does not concur with the opinion of the Banking Commission.

SECTION II
Prohibitions

Articles L511-5 to L511-8

Article L511-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

It is prohibited for any person other than a credit institution to carry out banking transactions on a regular basis.

It is, moreover, prohibited for any company other than a credit institution to receive on-demand deposits or term deposits of less than two years from the public.

Article L511-6

(Act No. 2001-420 of 15 May 2001 Art. 19 Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 35, Art. 58 3 Official Journal of 2 August 2003)
(Act No. 2005-842 of 26 July 2005 Art. 18 II Official Journal of 27 July 2005)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Without prejudice to the specific provisions applicable thereto, the prohibitions indicated in Article L. 511-5 do not apply to the institutions and services enumerated in Article L. 518-1, companies governed by the Insurance Code, reinsurance companies, approved organisations which are subject to the provisions of Book II of the Mutuality Code for the transactions referred to in e) of 1 of Article L. 111-1 of the said code, investment firms, organisations which collect the employers' contribution to the construction effort for the transactions covered by the Building and Housing Code, securitisation funds, undertakings for collective investment in transferable securities or real-property collective investment undertakings.

The prohibition relating to credit transactions does not apply to:

1. Non-profit-making organisations which, in the context of their mission and for social purposes, grant loans from their own equity to some of their members on preferential terms;

2. Organisations which, for the transactions indicated in Article L. 411-1 of the Building and Housing Code, and only as an adjunct to their construction business or the services they render, grant first-time homebuyers deferred payment of the price of the dwellings they purchase or subscribe to;

3. Companies which grant advances against salaries and wages or loans of an exceptional nature to their employees for social reasons;

4. Venture capital trusts which, in the circumstances referred to in Article L. 214-36, grant current account advances to the companies in which they have an equity holding;

5. Non-profit-making associations which grant loans for the creation and development of businesses by the unemployed or by minimum-wage earners from their own equity and from loans taken out with credit institutions or organisations or departments indicated in Article L. 518-1 which are approved and supervised under conditions laid down in a Conseil d'Etat decree;

6. Legal entities for equity loans they grant by virtue of Articles L. 313-13 to L. 313-17, and legal entities referred to in Article L. 313-21-1 for issuance of the guarantees referred to in that article.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the

Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L511-7

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 29 IV, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 70 1, Official Journal of 2 August 2003)

I. - The prohibitions indicated in Article L. 511-5 do not prevent a company, regardless its nature, from:

1. Granting its contracting parties deferred payment terms or advances in the normal course of its business dealings;

2. Entering into leases for dwellings that include an option to purchase;

3. Carrying out cash transactions with companies that have direct or indirect capital links with it that confer on one of the linked companies effective control of the others;

4. Issuing transferable securities and negotiable debt instruments;

5. Issuing bonds and letters to enable a given item or service to be purchased from it;

6. Allocating cash to guarantee a financial instruments transaction or a securities lending transaction governed by the provisions of Article L. 431-7;

7. Entering into repurchase and reverse repurchase agreements for financial instruments and public bills referred to in Article L. 432-12.

II. - The Credit institutions and Investment Companies Committee may exempt from authorisation a company engaged in any business involving the delivery or management of means of payment when they are only accepted by companies which are linked to that company within the meaning of 3 of I or by a limited number of companies which are clearly distinguished by the fact that they are in the same premises or in a confined geographic area or by their close financial or commercial relationship with the issuing institution, which might take the form of a shared marketing or distribution facility.

In order to grant exemption, the Credit institutions and Investment Companies Committee must, inter alia, take account of the security of the means of payment, the arrangements used to ensure user protection, the unit price and the terms of each transaction.

When the company benefiting from exemption manages, or makes available, means of payment in the form of electronic currency:

1 The maximum load capacity of the electronic medium made available to the bearers for payment purposes cannot exceed an amount determined by order of the Minister for the Economy;

2 An activity report, the content of which is determined by order of the Minister for the Economy, is sent to the Bank of France each year.

Article L511-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any company other than a credit institution is prohibited from using a trade name, company name, advertising or, more generally, any wording, which might imply that it is an authorised credit institution or create confusion in that regard.

A credit institution is prohibited from giving the impression that it belongs to a category other than that for which it received authorisation, and from creating confusion in that regard.

SECTION III
Conditions of Admission to the Profession — Articles L511-9 to L511-28

Subsection 1
Authorisation — Articles L511-9 to L511-13-1

Article L511-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Credit institutions are authorised as a bank, mutual or cooperative bank, municipal credit bank, finance company or specialised financial institution.

Only the banks, mutual or cooperative banks and municipal credit banks are generally authorised to receive on-demand deposits or term deposits of less than two years from the public.

Banks may carry out all banking transactions.

Mutual or cooperative banks and municipal credit banks may carry out all banking transactions consistent with the limitations that result from the laws and regulations that govern them.

Article L511-10

(Act No. 2001-420 of 15 May 2001 Art. 7 i 1, 2, Art. 9, Art. 10 1 Official Journal of 16 May 2001)
(Order No. 2004-1201 of 12 November 2004 Art. 5 Official Journal of 16 November 2004)

Before commencing their activities, credit institutions must obtain approval from the Credit Institutions and Investment Firms Committee referred to in Article L. 612-1.

The Credit Institutions and Investment Firms Committee checks whether the company meets the requirements

indicated in Articles L. 511-11, L. 511-13 and L. 511-40 and the suitability of its legal form for the business of a credit institution. It takes account of the company's activities schedule, the technical and financial facilities it intends to implement, the quality of the contributors of capital and, where applicable, their guarantors.

The committee also assesses the applicant company's ability to realise its development plans in conditions compatible with the proper functioning of the banking system and adequate customer security.

In determining its approval criteria, the Credit Institutions and Investment Firms Committee may take the specificity of certain credit institutions in the social economic sector into account. It assesses, inter alia, the significance of their activities in regard to the public interest functions associated with combating exclusion or the effective recognition of a right to credit.

The committee may limit its approval to the carrying out of certain transactions specified in the applicant's corporate purpose.

The Committee may attach special conditions to the approval granted intended to maintain the balance of the institution's financial structure and the proper functioning of the banking system, taking into account, where applicable, the objectives of the additional supervision referred to in Chapter VII of Part I of Book V of the present code. It may also make the granting of approval subject to compliance with undertakings given by the applicant institution.

The committee may refuse to grant approval if performance of the supervisory function in relation to the applicant firm is likely to be impeded either by the existence of links of capital or direct or indirect control between the company and natural persons or legal entities, or by the existence of laws or regulations of a State outside the European Economic Area which one or more of those natural persons or legal entities are governed by.

The committee may, moreover, refuse approval if the persons referred to in Article L. 511-13 do not possess the necessary respectability and competence or suitable relevant experience.

Any natural person or legal entity intending to file a takeover bid with the Financial Markets Authority pursuant to Chapter III of Part III of Book IV of the present code with a view to acquiring a given percentage of the securities of a credit institution approved in France, is required to inform the Governor of the Bank of France, as chairman of the Credit Institutions and Investment Firms Committee, thereof eight business days before the draft bid is filed or is publicly advertised, whichever is sooner.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply for the first time to the monitoring of accounts for the period commencing 1 January 2005 or during that year".

Article L511-11

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Credit institutions must have paid-up capital or a paid allocation of an amount at least equal to a sum determined by the Minister for the Economy.

Article L511-12

(Order No. 2005-429 of 6 May 2005 Art. 52 Official Journal of 7 May 2005)

When a company governed by the law of a State which is not a member of the European Community applies, pursuant to 1 of Article L. 611-1, to take an equity holding in a credit institution or an investment firm which would have the effect of making the latter its subsidiary, or when a direct or indirect subsidiary of such a company applies to the Credit Institutions and Investment Firms Committee for approval, the Committee shall limit or suspend its decision if the Council or the Commission of the European Community so requests after establishing that credit institutions or investment firms having their registered office in a Member State do not have access to that third State's market or do not benefit from the same treatment there as credit institutions having their registered office in that State.

When the Committee limits or suspends its decision as provided for in the previous paragraph, the approval granted by the competent authority of a European Economic Area Member State which is not a member of the European Community has no legal effect in France during the period of limitation or suspension and the provisions of Articles L. 511-21 to L. 511-28 do not apply to the institutions concerned.

Article L511-12-1

(Act No. 2001-420 of 15 May 2001 Article 7 I 3, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 25 I, Article 46 VI 2, Official Journal of 2 August 2003)

Any amendment to the conditions of an authorisation granted to a credit institution must be the subject, as applicable, of prior authorisation from the Credit institutions and Investment Companies Committee, a declaration or a notification, as determined for in an order of the Minister for the Economy.

In cases in which an authorisation must be granted, it too may have special conditions attached to it for the purposes of the sixth paragraph of Article L. 511-10, or may be contingent upon compliance with undertakings given by the institution concerned.

Within the framework of a merger operation involving, directly or indirectly, a credit institution or an investment firm, the Credit institutions and Investment Companies Committee may, if it considers it necessary for its own information, render its decision on the basis of the present article after the decision rendered by the Minister for the Economy pursuant to Articles L. 430-1 et seq. of the Commercial Code or that rendered by the European Commission pursuant to Regulation (EEC) No. 4064/89 of the Council, of 21 December 1989, relating to the control of company merger operations.

Article L511-13

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Act No. 2001-420 of 15 May 2001 Article 10 2, Official Journal of 16 May 2001)

The principal administrative establishment of any credit institution required to obtain the present authorisation must be located within the same national territory as its registered office.

The effective determination of the general orientation of a credit institution's business must be decided by at least two persons, who must at all times meet the conditions laid down in Article L. 511-10.

Credit institutions whose registered office is abroad shall designate at least two persons to whom they entrust the effective determination of the activities of their branch in France.

Article L511-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The committee renders its decision within twelve months of receiving the application for authorisation. Any refusal of authorisation is notified to the applicant.

The Credit institutions and Investment Companies Committee prepares and updates a list of the credit institutions which is published in the Official Journal of the French Republic.

Article L511-15

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 7 4, Official Journal of 16 May 2001)

Withdrawal of authorisation is ordered by the Credit institutions and Investment Companies Committee at the request of the institution concerned. It may also be decided automatically by the Committee if the institution no longer complies with the conditions or the undertakings which its authorisation or a subsequent authorisation was contingent upon, or if the institution did not make use of its authorisation within twelve months or has not traded for at least six months.

Withdrawal of authorisation takes effect upon expiry of a period determined by the Credit institutions and Investment Companies Committee.

During that period:

1. The credit institution is still subject to the supervision of the Banking Commission and, if applicable, the Financial Markets Council. The Banking Commission may impose the disciplinary sanctions indicated in Article L. 613-21 on it, including striking-off;

2. The institution may only carry out the banking transactions and perform the investment services which are strictly necessary to settle its affairs and must limit the other activities referred to in Articles L. 311-2, L. 511-2 and L. 511-3;

3. It may refer to its credit-institution status only when stating that its authorisation is in the process of being withdrawn.

Article L511-16

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 74 1, Official Journal of 2 August 2003)

In the situation referred to in Article L. 511-15, the funds received from the public referred to in Article L. 312-2, since they may only be regularly received by a credit institution, and also any securities issued by that institution which are not transferable on a regulated market, are reimbursed by the institution on their due dates or, if the due date falls after expiry of the period referred to in the second paragraph of Article L. 511-15, on the date determined by the Credit institutions and Investment Companies Committee. Upon expiry of that period, the company loses its credit-institution status and must have changed its corporate name. Banking transactions other than receipts of funds from the public which the company entered into or undertook to enter into before the decision to withdraw authorisation was taken may run their normal course.

Notwithstanding the provisions of 4 and 5 of Article 1844-7 of the Civil Code, the early dissolution of a credit institution cannot be pronounced until its authorisation has been withdrawn by the Credit institutions and Investment Companies Committee. Notwithstanding Articles L. 123-1 and L. 237-3 of the Commercial Code, the publication and the amending entry in the Trade and Companies Register concerning the pronouncement of such dissolution must indicate the date of the Credit institutions and Investment Companies Committee's decision to withdraw authorisation. Until closure of the liquidation proceedings, the institution shall remain subject to the Banking Commission's supervision, which may impose all sanctions provided for in Article L. 613-21 of the present Code. It shall not refer to its credit-institution status without indicating that it is in liquidation.

Article L511-17

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The deletion of a credit institution from the list of authorised credit institutions may be pronounced as a disciplinary measure by the Banking Commission.

Such deletion entails liquidation of the legal entity if its registered office is in France. In the case of branches of institutions having their registered office outside the European Economic Area, such deletion entails liquidation of the branch's balance-sheet items and off-balance-sheet items. In order to protect the customers' interests, the Banking Commission may postpone the liquidation until expiry of a period which it determines.

Any institution which has been struck off remains subject to the Banking Commission's supervision until closure of the liquidation proceedings. It may only carry out the transactions which are strictly necessary to settle its affairs. It shall not refer to its credit-institution status without stating that it is in liquidation.

Article L511-18

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

The Minister for the Economy determines the implementing legislation for Articles L. 511-15 to L. 511-17. He determines, inter alia, the manner in which:

1. Decisions to withdraw authorisation and strike off are made known to the public;

2. In addition to the right to avail itself of the other legal means of assignment and enforceability against third parties, assignment of the debts resulting from the credit transactions referred to in Article L. 313-1 may be made binding on third parties through the written consent of the debtor or by a decision of the Banking Commission;

3. Housing savings plans and accounts, company savings plans, popular savings plans and accounts, equity-linked savings plans, and commitments by signature may be transferred, without prejudice to the rights of the holders or the beneficiaries, to one or more other credit institution(s);

4. Financial instruments entered in the institution's books may be transferred to another investment service provider or to the issuer;

5. The transactions referred to in Articles L. 311-2, L. 511-2 and L. 511-3 are limited.

Article L511-19

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When credit institutions having their registered office abroad open offices to provide information, liaison or representation services, the opening of those offices must be notified to the Credit institutions and Investment Companies Committee in advance.

The said offices may display the name of the credit institution that they represent.

Article L511-20

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 1 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 5 Official Journal of 16 November 2004)

I. A company which is under exclusive control within the meaning of Article L. 233-16 of the Commercial Code or under a dominant influence through the existence of major and enduring interdependence links deriving from financial commitments or common directors or departments is a subsidiary of a credit institution, an investment firm, a financial holding company or a mixed financial holding company.

II. - The fact of directly or indirectly holding at least 20% of a company's voting rights or capital, or a block of rights in a company's capital, which, by creating an enduring link with that company, is bound to contribute to its business, constitutes an equity interest.

III. - A group consists of a parent company, its subsidiaries and the entities in which the parent company or its subsidiaries hold equity interests, as well as entities which are linked on account of their administrative, management or supervisory organs being majoritarily composed of the same persons or through being placed under the same management by virtue of a contract or their articles of association. The institutions affiliated to a network and a central organ within the meaning of Article L. 511-31 are deemed to form part of a single group for application of the present code. The same applies to entities belonging to cooperative groups governed by the similar provisions of the legislation applicable to them.

IV. - The term "financial conglomerate" denotes the group formed by the direct or indirect subsidiaries of a credit institution, an investment firm or a financial holding company, and by the companies of a financial nature over which the parent company exercises joint control within the meaning of Article L. 233-16 of the Commercial Code.

The companies of a financial nature referred to in the previous paragraph are defined by the regulations.

V. - The term "mixed group" denotes the group formed by the direct or indirect subsidiaries of a parent company which is not a financial holding company, a credit institution, an investment firm or a mixed financial holding company within the meaning of Article L. 517-4 but which has at least one subsidiary which is a credit institution or an investment firm. The parent company of a mixed group is a mixed company.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L511-13-1

(inserted by Act No. 2005-842 of 26 July 2005 Art. 13 I Official Journal of 27 July 2005)

Without prejudice to the provisions of Article L. 229-4 of the Commercial Code, the Credit Institutions and Investment Firms Committee is also authorised, pursuant to the provisions of Article 8, 14, and Article 19 of (EC) Regulation No. 2157/2001 of the Council dated 8 October 2001 relating to European company status, to oppose the transfer of the registered office of a credit institution created as a European company registered in France which would result in a change in the applicable law, and likewise the creation of a European company through a merger involving a credit institution registered in France. Such decisions are appealable before the Conseil d'Etat.

Subsection 2
Freedom of Establishment and Freedom to Provide Services within the Territory of the European Economic Area Member States — Articles L511-21 to L511-28

Article L511-21

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the present subsection:

1. The term "banking service" denotes a banking transaction within the meaning of Article L. 311-1 or one of the

related activities within the meaning of Article L. 311-2;

2. The term "competent authorities" denotes one or more authorities within a Member State which are responsible, pursuant to that State's legislation, for authorising or supervising credit institutions having their registered office there;

3. The term "service provided under freedom to provide services" denotes an activity through which a credit institution or a financial institution provides, in a Member State other than that in which its registered office is located, a banking service other than through a permanent presence in that Member State;

4. The term "financial institution" denotes a company which is not authorised as a credit institution in a State in which its registered office is located and which has as its principal activity, concurrently or otherwise:

a) One or more activities referred to in 1, 3, 4 and 5 of Article L. 311-2;

b) The acquisition of equity holdings in companies having as their principal activity the carrying out of banking transactions or which are engaged in one of the aforementioned activities;

c) For a company having its registered office in a European Economic Area Member State other than France, the carrying out of banking transactions within the meaning of Article L. 311-1, with the exception of receiving funds from the public.

5. European Economic Area Member States are treated in the same way as European Community Member States other than France.

Article L511-22

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Within the limits of the services it is authorised to provide in the territory of a Member State other than France in which its registered office is located, and consistent with the authorisation it has received there, any credit institution may, within the territory of Metropolitan France and the Overseas Departments, establish branches to provide banking services and freely provide services as envisaged in Article L. 511-24, subject to the Credit institutions and Investment Companies Committee having been informed thereof beforehand by the competent authority of the Member State, as determined by the Minister for the Economy.

Article L511-23

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Within the limits of the services it is authorised to provide in the territory of a Member State other than France in which its registered office is located, any financial institution that has obtained an attestation from the competent authorities of that Member State certifying that it meets the conditions required for that purpose by those authorities may, within the territory of Metropolitan France and the Overseas Departments, establish branches to provide banking services and freely provide services as envisaged in Article L. 511-24, subject to the Credit institutions and Investment Companies Committee having been informed thereof beforehand by the competent authority of the Member State, as stipulated by the Minister for the Economy.

Article L511-24

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 1, 2 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 53 Official Journal of 7 May 2005)

The institutions referred to in Articles L. 511-22 and L. 511-23 and their branches established in France are not subject to the provisions of Articles L. 511-10, L. 511-11, L. 511-14, L. 511-35, L. 511-38, L. 511-39 and L. 511-40.

They are not subject to the order of the Minister for the Economy, save for the provisions of those regulations which have not been the subject of coordination between the Member States, when they are beneficial to the general public or when they relate to the monetary policy or the institutions' cash reserves.

The Minister for the Economy determines the provisions of the regulations which are applicable by virtue of the present article.

Article L511-25

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

For the purpose of supervising an institution benefiting from the scheme provided for in Article L. 511-24, and notwithstanding the provisions of Article 1 Bis of Act No. 68-678 of 26 July 1968, the competent authorities that supervise the said institution may require it and its branches in France to send them all information relevant to that supervision and, subject to them having given the Banking Commission prior notice thereof, may, either themselves or through the intermediary of persons duly empowered by them for that purpose, conduct on-the-spot inspections at that institution's branches in France.

Article L511-26

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The institutions referred to in Articles L. 511-22 and L. 511-23 are subject to the supervision of the Banking Commission as provided for in Article L. 613-33.

Article L511-27

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Any credit institution having its registered office in France and wishing to establish a branch in another Member State must send its plan to the Credit institutions and Investment Companies Committee, together with information as

specified by the Minister for the Economy.

Unless the Credit institutions and Investment Companies Committee, on the basis of that plan, has reservations regarding the suitability of the credit institution's administrative structures or financial situation, it forwards that information to the competent authority of the host State and informs the institution concerned thereof within three months of receiving it in due form.

If the Credit institutions and Investment Companies Committee refuses to forward the information referred to in the first paragraph to the competent authority of the host State, it shall inform the institution concerned of the reasons for that refusal within three months of receiving that information in due form.

Credit institutions having their registered office in France and wishing to conduct their business within the territory of another Member State for the first time under freedom to provide services are required to declare this to the Credit institutions and Investment Companies Committee. The said declaration is accompanied by information as specified by the Minister for the Economy.

The Minister for the Economy determines the circumstances in which the information referred to in the previous paragraphs is forwarded to the competent authority of the other Member State.

Article L511-28

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 7, VI 1, Official Journal of 2 August 2003)

Any financial institution having its registered office in France and wishing to establish a branch within the territory of another Member State in order to offer banking services under freedom of establishment must send its plan to the Credit institutions and Investment Companies Committee, together with the information specified by the Minister for the Economy.

The financial institution must also show the Credit institutions and Investment Companies Committee that it meets the conditions laid down by the Minister for the Economy. Those conditions relate to the activities carried out by those institutions in France, the manner in which they are placed under the control of credit institutions and the rules applied to ensure the quality and supervision of their management and to have their commitments guaranteed by the parent companies.

If the institution meets the conditions referred to in the previous paragraph, the Credit institutions and Investment Companies Committee shall, on the basis of that plan, unless it has reservations regarding the suitability of the credit institution's administrative structures or financial situation, forward the information concerning the plan to the competent authority of the host State within three months of receiving it and shall inform the institution concerned thereof.

Financial institutions wishing to conduct their business in the territory of another Member State for the first time under freedom to provide services are required to make a declaration to that effect to the Credit institutions and Investment Companies Committee.

They must also show that they meet the conditions referred to in the second paragraph of the present article.

A financial institution conducting its business in another Member State within the framework of the provisions of the present article is subject to the provisions of Articles L. 511-13, L. 511-33 and L. 511-39, and also to the orders adopted by the Minister for the Economy for those among them who envisage that the scope of their activities will encompass that category of institution. It is supervised by the Banking Commission under the conditions laid down in Articles L. 613-1, L. 613-6 to L. 613-8, L. 613-10 and L. 613-11; it may be the subject of the measures and penalties enumerated in Articles L. 613-15, L. 613-16, L. 613-18 and L. 613-21. The deletion referred to in 6 of Article L. 613-21 must be understood as the withdrawal of the benefit of the scheme referred to in the present article.

A Conseil d'Etat decree determines the implementing provisions of the present article and of Article L. 511-27, as necessary.

SECTION IV
Professional Bodies — Articles L511-29 to L511-32

Subsection 1
The French Association of Credit institutions and Investment Companies and Other Professional Organisations — Article L511-29

Article L511-29

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

All credit institutions are required to belong to a professional body or a central body affiliated to the French Association of Credit institutions and Investment Companies.

However, the Minister for the Economy may authorise certain specialised financial institutions to be direct members of that association.

The purpose of the French Association of Credit institutions and Investment Companies is to represent the collective interests of the credit institutions and investment companies in relation to the public authorities, to provide information to its members and to the public, to examine any question of common interest and to make recommendations in relation thereto with a view, where applicable, to encouraging cooperation between networks and the organisation and management of services of common interest.

The French Association of Credit institutions and Investment Companies is also authorised to enter into consultations with the representative trade unions in that sector on general questions which concern all credit institutions

and investment companies.

Its articles of association are subject to ministerial approval.

Subsection 2
Central Bodies — Articles L511-30 to L511-32

Article L511-30
(Act No. 2003-706 of 1 August 2003 Art. 93 III Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 54 Official Journal of 7 May 2005)

For application of the provisions of the present code which relate to credit institutions, the following are considered to be central bodies: Crédit agricole S.A., the Banque fédérale des banques populaires, the Confédération nationale du crédit mutuel, the Caisse nationale des Caisses d'épargne et de prévoyance and the Chambre syndicale des sociétés anonymes de crédit immobilier.

Article L511-31
(Act No. 2001-420 of 15 May 2001 Art. 28 Official Journal of 16 May 2001)
(Act No. 2002-1303 of 29 October 2002 Art. 4 Official Journal of 30 October 2002)
(Order No. 2005-429 of 6 May 2005 Art. 55 Official Journal of 7 May 2005)

The central bodies represent the credit institutions affiliated to them in relation to the Bank of France, the Credit Institutions and Investment Firms Committee and, without prejudice to the specific rules of the disciplinary procedure, the Banking Commission.

They are responsible for the homogeneity of their network and for ensuring the correct functioning of the institutions affiliated to them. To that end, they take all necessary measures to guarantee the liquidity and solvency of each of those institutions and of the entire network. They may also decide to prohibit or limit the distribution of dividends to the shareholders or any payment connected with the shares to members of the credit institutions or investment firms affiliated to them.

When directly or indirectly held by a central body within the meaning of Article L. 511-30, the securities referred to in the last paragraph of Article 19 tervicies of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter are not taken into account for calculation of the threshold of 50% of the capital of the credit institutions affiliated to them referred to in the aforementioned Article 19 tervicies.

They oversee the application of the laws and regulations specific to those institutions and exercise administrative, technical and financial control over the organisation and management thereof. The on-the-spot inspections of the central bodies may be extended to their direct or indirect subsidiaries, and also to those of the institutions affiliated to them.

Within the scope of those powers, they may apply the penalties provided for in the laws and regulations which are specific to them.

The central body must notify any loss of affiliated-institution status to the Credit Institutions and Investment Firms Committee, which then decides on the approval of the institution in question.

For application of Section 2 of Chapter V of Part II of Book II of the Commercial Code, each corporate remit held in the central body, within the meaning of Article L. 511-30 of the present code, or in the credit institutions affiliated to it, must be counted as a single remit.

After informing the Banking Commission thereof and without prejudice to the powers of the Credit Institutions and Investment Firms Committee, the central bodies may, when the financial situation of the institutions concerned warrants it, and notwithstanding any legal or contractual provision to the contrary, decide to merge two or more of the legal entities affiliated to them, with a total or partial sale of their assets and their dissolution. The executive structures of the legal entities concerned must have been consulted by the central bodies beforehand. The latter are responsible for the liquidation of credit institutions affiliated to them or the total or partial sale of their assets.

Article L511-32
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - Without prejudice to the powers conferred on the Banking Commission for carrying out on-site document inspections in the institutions affiliated to them, each of the central bodies contributes, in its own specific field, to application of the laws and regulations governing the credit institutions.

To that end, they refer violations of those provisions to the Banking Commission.

II. - The Minister for the Economy appoints a Government Representative to any central body referred to in Article L. 511-30 or any credit institution to which the State has entrusted public power prerogatives or a public-interest mission.

A decree defines the present article's implementing regulations. It specifies, inter alia, the circumstances in which the Government Representative may oppose the decisions of the central body's, or the credit institution's, deliberative bodies relating to the implementation of the public power prerogatives or a public-interest mission which have been entrusted to it.

SECTION V
Professional Secrecy — Articles L511-33 to L511-34

Article L511-33
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any member of a Board of Directors and, if applicable, of a Supervisory Board, and any person who, in whatever capacity, participates in the management or administration of a credit institution or is employed by one, is bound by professional secrecy, under the terms and subject to the penalties provided for in Article L. 571-4.

In addition to the cases provided by law, professional secrecy cannot be raised against the Banking Commission, the Bank of France, or a court acting within the scope of criminal proceedings.

Article L511-34

(Act No. 2003-706 of 1 August 2003 Art. 72 1 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 5 Official Journal of 16 November 2004)

Companies established in France which form part of a financial group, a mixed group or a financial conglomerate which includes credit institutions or investment firms having their registered office in a European Community Member State or a European Economic Area Member State or a State in which the agreements referred to in Article L. 613-13 are applicable, are required, notwithstanding any provision to the contrary, to send companies in the same group having their registered office in one of those States:

1 The information relating to their financial situation which is necessary for organisation of the supervision of those credit institutions or investment firms on a consolidated basis and for their additional supervision;

2 The information which is necessary to combat money laundering and the financing of terrorism.

The latter information cannot be communicated to persons outside the group, with the exception of the proper authorities of the States referred to in the first paragraph. This exception does not extend to the authorities of States or territories whose legislation is recognised as inadequate or whose practises are considered to impede the fight against money laundering or the financing of terrorism by the international authority for consultation and coordination to combat money laundering, the list of which is updated by order of the Minister for the Economy.

Persons receiving such information are bound by professional secrecy under the terms and subject to the penalties provided for in Article L. 511-33 in respect of all information or documents which they might receive or hold.

The provisions of the present article shall not impede application of Act No. 78-17 of 6 January 1978 relating to information technology, computer records and freedom.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION VI
Accounting Reserves — Articles L511-35 to L511-39

Subsection 1
Corporate Accounts and Accounting Records — Articles L511-35 to L511-37

Article L511-35

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 8, Official Journal of 2 August 2003)

The provisions of Articles L. 232-1 and L. 232-6 of the Commercial Code are applicable to all credit institutions and investment firms as determined by the Regulatory Commission for Accounting on the advice of the Advisory Committee for Financial Legislation and Regulations.

Article L511-36

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 8, Official Journal of 2 August 2003)

Credit institutions are required to draw up their accounts as determined by the Regulatory Commission for Accounting on the advice of the Advisory Committee for Financial Legislation and Regulations.

Article L511-37

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 8, Official Journal of 2 August 2003)

All credit institutions, investment firms, apart from portfolio management companies, and members of a clearing house referred to 3 of Article L. 442-2 must publish their annual accounts as determined by the Regulatory Commission for Accounting on the advice of the Advisory Committee for Financial Legislation and Regulations.

The Banking Commission shall ensure that the publications referred to in the present article appear regularly. It may order the persons referred to in the previous paragraph to effect amending publications in the event of any inaccuracies or omissions being found in the published documents.

It may draw the public's attention to any information it considers necessary.

Subsection 2
Auditors — Articles L511-38 to L511-39

Article L511-38

(Act No. 2003-706 of 1 August 2003 Art. 46 III 8, Art. 116 Official Journal of 2 August 2003)

(Order No. 2005-1126 of 8 September 2005 Art. 21 Official Journal of 9 September 2005)

Auditing is carried out in each credit institution or investment firm by at least two auditors as provided for in Book VIII of the Commercial Code. The said auditors are appointed on the advice of the Banking Commission, as determined by decree. Moreover, the Banking Commission may appoint an additional auditor when the situation warrants it. The said auditors must not represent or belong to firms which have links between them of a legal, professional, shareholding or organisational nature. They perform their duties as determined in Book VIII of the Commercial Code and they certify the annual accounts. They verify the true and fair nature of the information intended for the public, and its conformity with the said accounts.

However, when the balance-sheet total of a credit institution or an investment firm is below a threshold set by the Regulatory Commission for Accounting after consultation with the Advisory Committee for Financial Legislation and Regulations, the certification referred to in the previous paragraph may be given by a single auditor. When this condition is met, and the institution is subject either to the rules of public accounting or to a specific approval scheme for its accounts which provides guarantees which the Banking Commission considers to be sufficient, the latter may decide to lift the certification requirement referred to in the previous paragraph.

The auditors must provide all necessary guarantees concerning their independence in relation to the credit institutions, investment firms or financial holding companies audited. The provisions of Book VII of the Commercial Code apply to the auditors of any credit institution, investment firm or financial holding company.

Article L511-39

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Articles L. 225-38 to L. 225-43 of the Commercial Code are applicable to all credit institutions.

For the application of Article L. 225-40 of that same code, for credit institutions which do not have general meetings, the auditors' special report is subject to the definitive approval of the Board of Directors.

When such credit institutions are exempted from the certification requirement, as provided for in the provisions of the second paragraph of Article L. 511-38 of the present Code, the special report is drawn up by the public accountant or by the organisation responsible for approving the accounts, as applicable.

SECTION VII
Prudential Provisions — Articles L511-40 to L511-43

Article L511-40

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Any credit institution must be able to show at any time that its assets effectively exceed its liabilities to third parties by an amount at least equal to the minimum capital referred to in Article L. 511-11.

However, the Minister for the Economy determines the manner in which institutions that result from the merger of two or more credit institutions and which do not meet the requirements of the preceding paragraph, may continue their activities.

Article L511-41

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 1, 2 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 5 Official Journal of 16 November 2004)

Conditions laid down by the Minister for the Economy require the credit institutions to comply with the management rules intended to guarantee their liquidity and solvency for depositors and, more generally, third parties, as well as the stability of their financial structure.

They must, in particular, comply with the hedge ratios and risk-division ratios.

Credit institutions must also have a suitable internal control system which enables them, inter alia, to gauge the risks and profitability of their activities. When their supervision is based on a consolidated financial situation, financial or mixed groups must adopt internal auditing procedures which enable them to generate information which is useful for the purpose of exercising that supervision. The credit institutions notify the Banking Commission of any large transactions between the credit institutions of a mixed group and a mixed company or its subsidiaries, as provided for in Article L. 613-8. An order of the Minister for the Economy determines the present paragraph's implementing legislation.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L511-41-1

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 5 Official Journal of 16 November 2004)

When the parent company of a credit institution is a credit institution, an investment firm or a financial holding company having its registered office in a State outside the European Economic Area, the Banking Commission verifies, on its own initiative or at the request of the parent company or a regulated entity approved in an EU Member State or another European Economic Area Member State, that the said credit institution is subject to consolidated supervision by a proper authority in the third country which is equivalent to that applicable in France. If no such equivalence exists, the credit institution is subject to the provisions relating to consolidated supervision applicable in France.

The Banking Commission may also use other methods to guarantee equivalent consolidated supervision subject to approval from the proper authority responsible for consolidated supervision in the European Economic Area and after consulting the relevant authorities of an EU Member State or another European Economic Area Member State. It may,

inter alia, require the formation of a financial holding company having its registered office in an EU Member State or another European Economic Area Member State.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L511-42

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When it appears that the situation of a credit institution warrants it, the Governor of the Bank of France, as chairman of the Banking Commission, after seeking the opinion of that Commission, except in emergencies, invites the shareholders or members of that institution to provide it with the support that it requires.

Article L511-43

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Credit institutions authorised in France are members of the guarantee fund referred to in Articles L. 312-4 to L. 312-16.

CHAPTER II
Mutual or Cooperative Banks — Articles L512-1 to L512-105

SECTION I
General Provisions — Article L512-1

Article L512-1

(Order No. 2005-429 of 6 May 2005 Art. 56 I Official Journal of 7 May 2005)

The mutual or cooperative banks are subject to the public limited companies' scheme of mergers, demergers and contributions of assets provided for in Book II of the Commercial Code, even if they are not established in a form governed by that law.

However, the provisions of Article L. 236-10 of the Commercial Code are not applicable to such institutions if they have not issued securities conferring a right over the net assets.

The mutual or cooperative banks may make public offerings.

SECTION II
Popular Banks — Articles L512-2 to L512-13

Subsection 1
General Provisions — Articles L512-2 to L512-9

Article L512-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The popular banks may do business with shopkeepers, industrialists, manufacturers, tradespeople, barge captains, commercial companies and members of the liberal professions only in connection with their normal industrial, commercial, trade or professional activities.

They are nevertheless authorised to render services to the members of a mutual guarantee society and to participate in the execution of any transaction guaranteed by such a society.

They may also receive deposits from any person or company.

The Caisse centrale des banques populaires is authorised to grant loans to civil servants, employed persons and independent workers.

Article L512-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - A popular bank's capital must be contributed by at least seven subscribers. The units subscribed may be unequal. Members who do not participate in the advantages of the popular bank and are only entitled to a return on their contributions may also subscribe. Their articles of association determine the extent of, and the conditions applicable to, the liability assumed in the company's commitments by each of the members.

II. - The subscribed capital shall not accrue interest at a rate higher than that referred to in Article 14 of the Act of 10 September 1947 relating to the cooperative charter. The surplus profits, after allocations to reserves, must be distributed to the customers who are members of the bank in proportion to the deductions of all kinds applied to them.

III. - Associations founded by shopkeepers, industrialists, manufacturers and tradespeople under the Act of 3 July 1901, trade associations, mutual guarantee societies, and savings banks are authorised to contribute to the capital of the popular banks.

Article L512-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The popular banks are subject to the publication requirements laid down in Article L. 515-10.

Article L512-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The articles of association of each popular bank determine the registered office location, territorial division and duration of the company. They determine the composition of the capital, the portion which each of the members contributes to its formation, the company's system of administration, the number of votes each member is entitled to at general meetings having regard to the number of units he holds, and the maximum number of votes he may hold regardless of that number of units.

The articles of association of each popular bank state whether the company extends the benefit of its services to persons other than its members.

They also provide that lines of credit are granted only within the limits determined for the bank by the Popular Banks Committee pursuant to the provisions of the second paragraph of Article 10 of the Act of 24 July 1929.

They determine the conditions applicable to amendments to the articles of association and dissolution of the company. Amendments require the approval of the Popular Banks Committee (1).

*(1) NB - Act 2001-420 2001-05-15 Article 27 I, paragraph 2:

"In the laws and regulations in force, the words "Popular Banks Committee" are replaced with the words "Federal Bank of the Popular Banks"."

Article L512-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members units are always registered.

When they are transferable, they are transferred with the approval of the Board of Directors.

When a popular bank is formed as an open-stock company, the articles of association determine the conditions under which the members may leave the company, obtain reimbursement of their units and be released from their commitments.

Article L512-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members of a popular bank cannot, under any circumstances, at any time, or in any form whatsoever, receive in reimbursement of their contribution a sum which exceeds the paid-up fraction of the membership shares that they hold. In particular, the reserves and provisions allocated by the company cannot give rise to any distribution to its members.

Article L512-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

If, after reimbursement of the company's debts, including advances of all kinds granted by the Federal Banks Committee (1), and the liquidation fees and the paid-up fraction of the membership shares, the dissolution or liquidation of a popular bank produces surplus assets, the amount of that surplus is paid to the collective guarantee fund instituted by Article L. 512-16. The Federal Banks Committee may nevertheless give all or part of that surplus a different application consistent with the popular banks' interests.

*(1) NB - Act 2001-420 2001-05-15 Article 27 I, paragraph 2:

"In the laws and regulations in force, the words "Federal Banks Committee" are replaced with the words "Federal Bank of the Popular Banks"."

Article L512-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Article L. 512-8 are applicable, after repayment of the advances of all kinds received from the Federal Banks Committee, to the surplus assets of a company which, for whatever reason, has lost its popular bank status. The amount of that surplus is determined, failing any amicable agreement, by an expert chosen by the extraordinary general meeting of the company and approved by the Federal Banks Committee. It is immediately collectable from the company concerned.

Subsection 2
Federal Bank of the Popular Banks — Articles L512-10 to L512-12

Article L512-10

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 27 I and II, Official Journal of 16 May 2001)

The Federal Bank of the Popular Banks, formed as provided for in I of Article 27 of Act No. 2001-420 of 15 May 2001 relating to new economic regulations, is a credit institution within the meaning of Chapter I of Part I of Book V. It is authorised to provide the investment services referred to in Articles L. 321-1 and L. 321-2. Its articles of association determine that the popular banks shall hold an absolute majority, at least, of its capital and voting rights.

Article L512-11

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 27 I and III, Official Journal of 16 May 2001)

The popular banks network includes the popular banks, the mutual guarantee societies which grant them exclusivity in regard to their guarantees, and the Federal Bank of the Popular Banks. The Federal Bank of the Popular Banks is responsible for:

1 Defining the policy and the strategic positioning of the popular banks network;
2 Negotiating and entering into national and international agreements on behalf of the popular banks network;
3 Approving the executives of the popular banks and defining the conditions of that approval;
4 Approving the articles of association of the popular banks and amendments thereto;
5 Providing centralisation for the popular banks' cash surpluses and their refinancing;
6 Taking all appropriate measures to ensure the organisation, smooth running and development of the popular banks network and calling for the contributions required to accomplish its missions as a central body.

Article L512-12
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 27 I and V, Official Journal of 16 May 2001)

The Federal Bank of the Popular Banks takes all necessary measures to guarantee the liquidity and solvency of the popular banks network by determining and implementing the necessary internal financial solidarity mechanisms. For that purpose, it has access, among others, to the funds deriving from the transfer of the guarantee fund of the Popular Banks Committee (1) which forms part of the fund for general banking risks which, should it be used, it may decide to reconstitute by calling for the necessary contributions from the popular banks.

*(1) NB - Act 2001-420 2001-05-15 Article 27 I, paragraph 2:

"In the laws and regulations in force, the words "Federal Banks Committee" are replaced with the words "Federal Bank of the Popular Banks"."

Subsection 3
Miscellaneous Provisions — Article L512-13

Article L512-13
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 27 I, VIII, Official Journal of 16 May 2001)

The use of the words "popular bank" as a title or description by any entity other than those referred to in the present section is prohibited.

SECTION III
The Crédit agricole — Articles L512-21 to L512-20

Article L512-20
(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The caisses de Crédit agricole governed by the present section are the caisses de Crédit agricole mutuel and the Crédit agricole's Central Administration.

The Crédit agricole area offices governed by the present section are those of the Crédit agricole mutuel and the Crédit agricole's Central Administration.

The Crédit agricole mutuel's area offices comprise:
1. The regional offices of the Crédit agricole mutuel described in Article L. 512-34;
2. The local offices of the Crédit agricole mutuel affiliated to the regional offices referred to in 1.

The local and regional offices are cooperative societies.

Subsection 1
The Crédit agricole mutuel — Articles L512-21 to L512-46

Paragraph 1
Organisation — Articles L512-21 to L512-35

Article L512-21
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The purpose of the Crédit agricole mutuel is to facilitate and guarantee its members' banking transactions relating to agricultural production and agricultural and rural equipment.

Article L512-22
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000 JORF amendment 17 March 2001)

The Crédit agricole mutuel admits to membership agricultural groups or their members, and public-sector institutions, associations and organisations indicated on a list determined by decree, as well as rural tradespeople who do not employ more than two workers on a permanent basis.

The articles of association may nevertheless provide for the Crédit agricole mutuel to admit to membership persons for whom they have effected a transaction referred to in Articles L. 311-1, L. 311-2, L. 511-2 and L. 511-3.

The provisions of the first paragraph shall not impede the application of the provisions of Article 3a of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter.

Article L512-23

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The capital of the Crédit agricole mutuel cannot be formed by share subscriptions. It must be subscribed by the members in the form of membership units.

The said membership units are registered. They are transferable, but the Board of Directors must approve their sale.

A Crédit agricole mutuel branch cannot be formed until one quarter of the share capital has been paid up.

Article L512-24

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

If the Crédit agricole mutuel branch has variable capital, it cannot be reduced below the level of the founding capital through departing members recovering their contributions.

Article L512-25

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The capital of a Crédit agricole mutuel office which has availed itself of a credit facility from the Crédit agricole's Central Administration cannot be reduced below the level it had reached when the last advance was made without the latter's express approval.

Article L512-26

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members of the Crédit agricole mutuel cannot, in principle, be released from their commitments to it until the transactions in progress at the time of their leaving are settled. In all cases, their liability ceases five years after the date of their departure.

Under no circumstances shall public law legal entities incur liability beyond the amount of the units they have subscribed.

Article L512-27

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Crédit agricole mutuel branches have a lien on the units which form the share capital in order to cover all their members' obligations towards them.

Article L512-28

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The duration of a Crédit agricole mutuel branch is indefinite.

Article L512-29

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Crédit agricole mutuel branches cannot carry out transactions until they have filed their articles of association and a full list of the directors or managers and members with the District Court having jurisdiction at the place where their principal registered office is located, indicating their name, occupation and domicile, and the amount of their subscription, as determined in a Conseil d'Etat decree.

The branch is validly constituted as soon as that filing is effected.

Article L512-30

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Crédit agricole mutuel branches are not required to register with the Trade and Companies Register.

Article L512-31

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The articles of association determine the registered office location, territorial division and method of administration of the Crédit agricole mutuel's area offices.

They determine the nature and scope of their activities, the rules applicable to amendments to the articles of association, dissolution of the company, composition of the capital, the proportion which each of the members may contribute to the capital and the conditions under which they may withdraw therefrom.

They determine the scope and conditions of the liability each member assumes in relation to the commitments made by the area office, pursuant to the provisions of Article L. 512-26.

The articles of association of a Crédit agricole mutuel area office which has availed itself of a credit facility from the Crédit agricole's Central Administration determine the maximum amount of the deposits that may be received in current accounts or term deposit accounts, as the amount of those deposits must always be represented by an equivalent asset which is immediately realisable on the due date.

Article L512-32

(Order No. 2004-1382 of 20 December 2004 Art. 8 Official Journal of 22 December 2004)

Article L. 228-39 of the Commercial Code is not applicable to mortgage lenders.

NB: Order 2004-1382 2004-12-20 Art. 12: The provisions of the present order apply with effect from the first accounting period commenced after 31 December 2004.

Article L512-33

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The corporate purpose of the regional offices of the Crédit agricole mutuel is to:

1. Facilitate the transactions executed by the members of the area offices of the Crédit agricole mutuel in their territorial division which are guaranteed by those area offices.

In the event of there being no local office able to examine applications, however, a regional office may, very occasionally, and if it has sufficient guarantees, grant various types of loans directly, and short-term loans to finance harvests in particular;

2. Make available to the beneficiary institutions any long-term loans which might be granted to them by the Crédit agricole's Central Administration.

Article L512-34

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The designation "regional office of the Crédit agricole mutuel" is reserved for regional offices which receive advances from the Crédit agricole's Central Administration and which operate under its supervision.

Article L512-35

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

In order to transact business through a regional office of the Crédit agricole mutuel, an area office of the Crédit agricole mutuel must have prior approval from the Crédit agricole's Central Administration. It must, moreover, be properly affiliated to that regional office and have subscribed at least one of its capital shares.

Paragraph 2
Operations

Articles L512-36 to L512-43

Article L512-36

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Crédit agricole mutuel branches are administered by a Board of Directors whose members are elected by the general meeting of members.

The members of the Board of Directors are not remunerated for their services, without prejudice to reimbursement to the members, when requested, of any special expenses necessarily incurred in the performance of their duties, or payment to the director specifically entrusted with exercising effective supervision over the running of the company, and compensation for the time devoted thereto, as determined each year by the general meeting.

Article L512-37

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members entrusted with the administration of the Caisse only incur personal liability in the event of a breach of the articles of association or the provisions of the present section.

Article L512-38

(Order No. 2005-429 of 6 May 2005 Art. 57 II Official Journal of 7 May 2005)

In the event of the Board of Directors of a regional office of the Crédit agricole mutuel ceasing its functions or making decisions contrary to the legal or regulatory provisions or the instructions of the Crédit agricole's Central Administration, the latter may appoint a committee entrusted with the temporary management of the regional office pending the election of a new Board of Directors.

Loans may be granted to directors of regional offices of the Crédit agricole mutuel only through a special and grounded decision of the boards of directors and must be approved by the Crédit agricole's Central Administration. Likewise, loans granted to directors of local offices must be approved through a similar procedure administered by the boards of directors and must be approved by the regional office.

Loans granted to an institution having one or more directors in common with the lending office must be approved through a special and grounded decision of the Board of Directors of the regional office, and the Crédit agricole's Central Administration must be informed of the said decision.

Article L512-39

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The boards of directors of the regional offices of the Crédit agricole mutuel have powers over the administration and management of the local offices affiliated to them similar to those that the Crédit agricole's Central Administration has over the administration and management of the area offices under Article L. 512-38. The election, by the boards of directors of the area offices of the Crédit agricole mutuel, of their chairman, vice-chairmen and managing directors must be approved by the regional office of the Crédit agricole, as must the amount of the compensation which may be allocated pursuant to Article L. 512-36.

However, the decisions of the boards of directors of the regional offices relating to the appointment of a committee responsible for the temporary management of a local office do not become final and binding until they are approved by the Crédit agricole's Central Administration.

Article L512-40

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The appointment of the managers of the regional offices of the Crédit agricole mutuel is subject to approval from the Crédit agricole's Central Administration, and cannot include any undertaking on the part of the regional office to maintain

the manager in his post for a fixed term.

The managers may be dismissed by a decision of the general manager of the Crédit agricole's Central Administration taken after consultation with the Board of Directors.

They are prohibited, unless specifically authorised by the Crédit agricole's Central Administration, from working in an industrial or commercial occupation, from engaging in private paid employment, from privately carrying out any work in return for remuneration, and from exercising directorship functions in an institution likely to receive loans from the Crédit agricole.

Article L512-41

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Ordinary general meetings must be held by 31 March for the regional offices, and by 30 April for the local branches, of the Crédit agricole mutuel.

Article L512-42

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The accounts of the Crédit agricole mutuel's area offices must be kept in accordance with the prescriptions of the accounting and banking authorities and pursuant to the instructions of the Crédit agricole's Central Administration.

Article L512-43

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

In the event of a regional office of the Crédit agricole mutuel which has received advances from the Crédit agricole's Central Administration being dissolved, the balance of the assets shall, after settlement of the office's debts and reimbursement of the capital effectively paid up, be placed on deposit without interest with the Crédit agricole's Central Administration until the amount thereof is, as and when required, made available to any regional office of the Crédit agricole mutuel which might be founded in the same Department to replace the dissolved regional office.

In the event of a local office of the Crédit agricole mutuel which has benefited from such advances through its regional office being dissolved, its assets, including the reserves, shall, after settlement of the office's debts and reimbursement of the capital effectively paid up, be allocated to an agricultural-interest cause on a decision of the General Meeting approved by the Crédit agricole's Central Administration.

Paragraph 3
Resources — Articles L512-44 to L512-46

Article L512-44

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Crédit agricole mutuel may receive deposits of funds from any person, with or without interest, and any deposit of securities.

Article L512-45

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The deposits received by the local offices affiliated to a regional office of the Crédit agricole mutuel must be transmitted immediately to the said regional office, which provides management therefor.

When a regional office has a surplus of deposits, that surplus must be deposited with the Crédit agricole's Central Administration.

Article L512-46

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The regional offices of the Crédit agricole mutuel may only issue medium-term notes with variable maturity, with or without interest, in favour of farmers domiciled in the catchment area of the regional office.

Subsection 2
The Caisse nationale du Crédit agricole — Articles L512-47 to L512-50

Paragraph 1
Organisation — Articles L512-47 to L512-49

Article L512-47

(Amending Finance Act No. No. 2001-1276 of 28 December 2001 Art. 65 I 2 for 2001 Official Journal of 29 December 2001)

(Order No. 2005-429 of 6 May 2005 Art. 57 III, Art. 58 Official Journal of 7 May 2005)

The Crédit agricole's Central Administration is a public limited company governed by the provisions of the Commercial Code and by the specific provisions of the present subsection which is responsible for coordinating and controlling the transactions provided for in the present code.

It carries out the missions which were entrusted by law to the Caisse nationale du Crédit agricole and to the common guarantee fund prior to enactment of the Act of 18 January 1988 relating to the mutualisation of the Caisse

nationale du Crédit agricole.

The equity holdings of the regional offices of the Crédit agricole mutuel referred to in Article L. 512-34 within the capital of the Crédit agricole's Central Administration are consolidated within a common company.

Article L512-48

(Order No. 2005-429 of 6 May 2005 Art. 57 I, III Official Journal of 7 May 2005)

One third of the voting rights attached to the shares of the Crédit agricole's Central Administration held by the regional offices of the Crédit agricole mutuel are distributed in equal measure between those offices, and the remaining two thirds are distributed in proportion to the number of shares held by each of them.

Article L512-49

(Order No. 2005-429 of 6 May 2005 Art. 57 I, III Official Journal of 7 May 2005)

The Board of Directors of the Crédit agricole's Central Administration includes, in addition to the members appointed by the General Meeting under the conditions laid down in Articles L. 225-17 and L. 225-18 of the Commercial Code, a representative of the professional agricultural organisations appointed as determined in a Conseil d'Etat decree.

The Board of Directors elects a chairman, who must be a director of a regional office of the Crédit agricole mutuel, and appoints a general manager responsible for the company's management.

Paragraph 3
Resources — Article L512-50

Article L512-50

(Order No. 2005-429 of 6 May 2005 Art. 57 I, III Official Journal of 7 May 2005)

The Crédit agricole's Central Administration is authorised to receive any deposit of funds or securities.

Subsection 3
Inspections — Articles L512-51 to L512-54

Article L512-51

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The Crédit agricole mutuel's area offices referred to in Articles L. 512-34 and L. 512-35 are subject to the supervision of the Crédit agricole's Central Administration.

They are required to provide it with all the documents, information and proof necessary to facilitate administrative, technical and financial supervision of their organisation and management.

Article L512-52

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

Institutions or authorities which have received advances or loans from the Crédit agricole's Central Administration are subject to the supervision of the Finance Inspectorate.

Article L512-53

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

Any distribution by the Crédit agricole's Central Administration of State-subsidised advances to the Crédit agricole mutuel's offices is subject to the supervision of the Finance Inspectorate.

Article L512-54

(Order No. 2005-429 of 6 May 2005 Art. 57 I Official Journal of 7 May 2005)

The Crédit agricole's Central Administration supervises the operations of all the institutions or authorities which have, directly or indirectly, received advances, long-term loans or other loans from area offices of the Crédit agricole mutuel pursuant to the present section.

SECTION IV
The Crédit mutuel — Articles L512-55 to L512-59

Article L512-55

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Crédit mutuel branches which are not governed by section 3 or by the special laws relating to State supervision are subject to the provisions of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter and those of the present section.

They relate exclusively to the Crédit mutuel.

They may receive deposits from any natural person or legal entity and allow third parties who are not members to benefit from their facilities or their services as determined by their articles of association.

The local branches of the Crédit mutuel must cooperate to found Departmental or Interdepartmental offices between them.

All Departmental and Interdepartmental Offices of the Crédit mutuel which are subject to the present section must cooperate to found a Caisse centrale du Crédit mutuel between them.

Article L512-56

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Each branch of the Crédit mutuel must belong to a regional federation and each regional federation must belong to the National Confederation of the Crédit mutuel, whose articles of association are approved by the Minister for the Economy.

The National Confederation of the Crédit mutuel is responsible for:

1. Collectively representing the Crédit mutuel branches to assert their common rights and interests;

2. Exercising administrative, technical and financial control over the organisation and management of each branch of the Crédit mutuel;

3. Taking all measures necessary to ensure the proper functioning of the Crédit mutuel, by encouraging, inter alia, the creation of new branches or arranging the closure of existing branches, in the latter case either through a merger with one or more other branches, or through a voluntary winding-up.

Article L512-57

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Minister for the Economy appoints a Government Representative to the National Confederation of the Crédit mutuel. The said Representative also exercises his powers over the Caisse centrale du Crédit mutuel, the regional federations and the Departmental and Interdepartmental Offices of the Crédit mutuel. To that end, he is invited to their general meetings and may attend the meetings of their boards of directors.

The Crédit mutuel branches are subject to the supervision of the Finance Inspectorate.

Article L512-58

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Articles L. 512-55 to L. 512-57 are applicable to Crédit mutuel branches in Bas-Rhin, Haut-Rhin and the Moselle governed by the local Act of 1 May 1889, as amended, relating to cooperative associations, and restated by Article 5 of the Act of 1 June 1924.

Article L512-59

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree determines the measures required for application of the present section, as necessary.

SECTION VI
Cooperative Banking Corporations — Articles L512-61 to L512-67

Subsection 1
General Provisions — Articles L512-61 to L512-63

Article L512-61

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The cooperative banking corporations are fixed-capital companies having the form of a union of cooperatives subject to the provisions of the present section and, insofar as they are not contrary to them, the provisions of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter.

Without prejudice to application of the provisions of Article 3a of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, only cooperative societies, mutual societies and mutual insurance companies governed by the Insurance Code may be members of a cooperative banking corporation, as may, subject to a limit of 30% of the capital and voting rights, the non-profit-making associations governed by the Act of 1 July 1901 or by the provisions applicable in the Departments of Bas-Rhin, Haut-Rhin and Moselle.

Article L512-62

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The cooperative banking corporations are authorised to increase their capital through incorporation of reserves.

They are authorised to pay a rate of interest on their capital which yields a return equal, at most, to the average rate of fixed-rate bonds issued or guaranteed by the State with a final expiry date beyond seven years whose capital or interest is not indexed, the said rate being established on the secondary market of Paris by the Caisse des dépôts et consignations during the year in respect of which that interest is paid.

Article L512-63

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The cooperative banking corporations are credit institutions.

They may receive deposits from any natural person or legal entity.

They must grant at least 80% of their credit facilities to their members, their members' members, cooperative societies, mutual societies or mutual societies governed by the Insurance Code, non-profit-making associations governed by the Act of 1 July 1901 or the local Act applicable in the Departments of Bas-Rhin, Haut-Rhin and Moselle, and public authorities or institutions and semi-public companies pursuant to Article L. 221-12.

Subsection 2
Board of Directors — Article L512-64

Article L512-64

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The board of directors or the Supervisory Board includes, as well as ten members' representatives, five representatives of the cooperative banking corporation's staff, at least one of whom is a manager, elected by the bank's entire staff on a vote by list with proportional representation based on the highest average.

The chairman is elected by the Board of Directors; the chairman of the Executive Board is elected by the Supervisory Board. Their appointment is subject to the approval of the Credit institutions and Investment Companies Committee.

Article L512-65

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Government Representative is appointed to each cooperative banking corporation by the Minister for the Economy.

He attends all meetings of the Board of Directors or the Supervisory Board and the Executive Board and the committees formed within those boards, as well as all general meetings of members. He may request communication of all the company's documents. He opposes his veto to any decision which would be contrary to the company's articles of association or the laws and regulations in force. The company has eight days in which to appeal against the decision of the Government Representative to the Minister for the Economy, who is required to give a ruling within fifteen days, failing which, the veto is lifted.

The Government Representative has the same powers in relation to the companies over which the cooperative banking corporation has control.

Article L512-66

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The articles of association of the cooperative banking corporations are approved by the Minister for the Economy.

Article L512-67

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Credit institutions which change their status to adopt that of a cooperative banking corporation must, within one year of their authorisation, comply with the provisions of Articles L. 512-61 to L. 512-64, under pain of withdrawal of authorisation or deletion from the list of authorised institutions.

Article L512-68

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 93 IV, Official Journal of 2 August 2003)

Pursuant to the directives issued by the Minister Responsible for Salt-Water Fishing, the objective of maritime mutual credit is to facilitate the financing of transactions and investments relating to salt-water fishing, marine cultivation and the activities associated therewith, as well as the extraction of sand, gravel and marine enriching agents, and the harvesting of plants from the sea or from the maritime environment.

The maritime mutual credit institutions may also execute any banking transaction for their members and those of the Federal Bank of the Popular Banks, and receive deposits of funds and securities from any person.

Article L512-69

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 93 IV, Official Journal of 2 August 2003)

Maritime mutual credit is offered by three categories of credit institutions affiliated to the Federal Bank of the Popular Banks:

1. Regional maritime mutual credit offices;

2. Maritime mutual credit unions formed between the regional offices, with the possibility of groups such a those described in Article L. 512-74;

3. A central maritime mutual credit society.

The composition and application of the share capital of the central maritime mutual credit society are governed by Article 19a of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter. The regional offices and

maritime mutual credit unions must hold the majority of the capital and voting rights of that society, whose articles of association are subject to ministerial approval.

Article L512-70
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The publication formalities required upon creation of the institutions referred to in Article L. 512-69 or in the event of subsequent acts or deliberations are determined by the decree referred to in Article L. 512-84.
The said institutions acquire legal personality as soon as they are registered in the Trade and Companies Register.

Article L512-71
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The High Commission for Maritime Mutual Credit is consulted concerning the draft regulations relating to maritime mutual credit and distribution of the State advances. It may take up any issue pertaining to maritime mutual credit and give the Government an opinion on those issues. It receives an annual activity report on the situation of maritime mutual credit. The composition of the Commission, consisting of six Members of Parliament and three Senators, is determined by the decree referred to in Article L. 512-84.

Article L512-72
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 93 IV, Official Journal of 2 August 2003)
The Federal Bank of the Popular Banks monitors the conformity of the financial transactions and accounting of the affiliated institutions referred to in Article L. 512-69; it handles all their financial transactions, and provides services to them consistent with their legal and financial autonomy.
The decree referred to in Article L. 512-84 determines the circumstances in which the Caisse centrale performs these functions.

Article L512-73
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The regional offices and unions constitute a specific category of commercial companies governed by the present section and by the non-conflicting provisions of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, by the provisions of the Commercial Code relating to open-stock companies, and by Articles L. 231-1 to L. 231-8 and L. 247-10 of the Commercial Code. The regional offices and, if applicable, the unions, are moreover governed by the provisions of the present Code applicable to credit institutions. Their articles of association must conform to the model articles of association approved as determined by the decree referred to in Article L. 512-84.

Article L512-74
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 93 IV, Official Journal of 2 August 2003)
Without prejudice to application of the provisions of Article 3a of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, the following may be members of a maritime mutual credit regional office or union:
1. As determined by the decree referred to in Article L. 512-84, natural persons who, as their principal occupation, conduct or have conducted one of the business activities referred to in the first paragraph of Article L. 512-68, as well as the ascendants, widows and orphans of those persons;
2. Groups which, since they are involved through their purpose in one of the activities referred to in the first paragraph of Article L. 512-68, belong to one of the categories determined by the decree referred to in Article L. 512-84;
3. The Federal Bank of the Popular Banks and the organisations whose financial and accounting management it centralises or supervises;
4. Other natural persons or legal entities who conduct their business or have a residence in a coastal department.

Article L512-75
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The regional maritime mutual credit offices and unions are constituted for a fixed term.
Their share capital is variable. It is represented by registered units. It cannot be reduced to an amount below that of the founding capital which is fixed by the articles of association at an amount at least equal to the minimum which the regional maritime mutual credit offices and, if applicable, the unions, must comply with in their capacity as credit institutions.
The par value of the units cannot be below a minimum set by the decree provided for in Article L. 512-84.
The amount of the units subscribed by the members referred to in 3 and 4 of Article L. 512-74 cannot exceed one half of the share capital. The articles of association may set a lower proportion.
A regional office or a union is not fully and finally constituted until one quarter of the subscribed capital is paid up.
The members bear the losses only in proportion to their unit holding in the share capital.

Subsection 2
Administration

Articles L512-76 to L512-81

Article L512-76
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Each regional office or union is administered by a board composed of six directors at least, and twelve at most, elected by the general meeting from among the members for a term of three years, with renewal of one third each year. However, if a seat on the board becomes vacant between two ordinary general meetings, the Board of Directors may make a provisional appointment under the conditions laid down in the articles of association.

Two thirds at least of the members of the Board of Directors must have merchant navy seaman status or be concessionaires of a fishery establishment in the public maritime domain.

Legal-entity directors must designate a permanent representative when they are elected. The said representative is subject to the same conditions and obligations and shall incur the same liability as a director in his own right, without prejudice to the joint and several liability of the legal entity represented.

The directors may be re-elected and dismissed by the general meeting. They are not remunerated. The general meeting may, nevertheless, grant them a fixed allowance to compensate them for the time they devote to their functions.

Article L512-77

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The directors shall only incur civil liability towards the regional office or the union and towards third parties in the event of a breach of the articles of association, a criminal offence or a breach of the provisions of the present section and its implementing legislation.

Article L512-78

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

After each of its partial renewals, the Board of Directors elects its chairman and its vice-chairman or vice-chairmen from among its members.

Without prejudice to the powers vested in the general meeting by the legislative provisions in force and the articles of association, and within the limits of the corporate purpose, the board has the broadest powers to administer the Caisse or union. It takes, among others, decisions to grant loans. It may delegate powers.

It closes the accounts for each accounting period in order to submit them to the general meeting and it draws up a report on the company's situation and its business.

It admits new members.

It appoints and dismisses the manager as determined by the decree referred to in Article L. 512-84.

Article L512-79

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The manager implements the decisions of the Board of Directors; he is vested with the powers required to manage the regional office or the union within the scope of those decisions.

He represents the regional office or the union in its dealings with third parties.

Article L512-80

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 93 IV, Official Journal of 2 August 2003)

If the Board of Directors takes decisions contrary to the special laws or regulations that govern maritime mutual credit or the directives referred to in Article L. 512-68, or fails to exercise its functions, the Federal Bank of the Popular Banks may, without prejudice to the provisions of Article L. 613-19, if a formal notice to perform remains fruitless, and under conditions laid down by the decree provided for in Article L. 512-84, ask the Minister for the Economy to dissolve the Board of Directors and appoint a temporary director or a temporary committee responsible for the administration of the Caisse or the union.

The remit of the temporary director or the temporary committee thus appointed shall cease when, at his/its behest, a new Board of Directors is elected, which election shall take place within six months, at the latest.

Article L512-81

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members shall meet at least once each year at a general meeting.

Each member shall have a number of votes proportionate to his number of units, within the limits laid down in the articles of association.

Under the conditions and within the limits laid down in the articles of association, any natural-person member may be empowered to represent other members.

The ordinary general meeting deliberates on the accounts for the previous accounting period and exercises the powers vested in it by Articles L. 512-76 and L. 512-82.

Only an extraordinary general meeting is authorised to amend the articles of association.

The articles of association determine the rules for convening general meetings and drawing up the agenda. They also determine the quorum and majority that are required for those meetings to be valid.

Subsection 3
Auditors — Article L512-82

Article L512-82

(Act No. 2003-706 of 1 August 2003 Art. 116 Official Journal of 2 August 2003)
(Order No. 2005-1126 of 8 September 2005 Art. 21 Official Journal of 9 September 2005)

In each regional office or union, an auditor is appointed by the General Meeting for a term of three accounting

periods. He must be selected pursuant to the provisions of Article L. 511-38. His remit is renewable.

Under his own responsibility, the auditor certifies the accuracy and true and fair nature of the general trading account, the profit and loss account and the balance sheet.

Article L512-83

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the event of the dissolution of a regional office or a union, the remainder of the assets, after payment of the company's debts and reimbursement of the capital effectively paid up, is allocated, on a proposal from the general meeting and by decision of the Minister Responsible for Salt-Water Fishing, as determined by the decree referred to in Article L. 512-84, to other maritime mutual credit offices, to maritime cooperation organisations or to maritime social interest projects approved for that purpose.

Article L512-84

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree determines the implementing legislation for the present section, as necessary.

Article L512-83-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 60 I Official Journal of 7 May 2005)

The regional offices and unions of the Crédit maritime mutuel are subject to on-site document inspections by the Finance Inspectorate.

Article L512-85

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The savings bank network fulfils public interest functions. It participates in implementation of the principles of solidarity and elimination of exclusion. Its primary objectives are the promotion and collection of savings and the development of providential savings to meet community and family needs. It contributes to the protection of popular savings, the collection of funds to finance social housing, improvement of local and regional economic development, particularly in the area of employment and training, and combating exclusion from banking and finance, for all participants in economic, social and environmental life, primarily on account of the funds collected on A passbook accounts, the specificity of which is maintained.

Under the conditions laid down in Article L. 512-91, the Caisses d'épargne et de prévoyance use a portion of their operating surpluses to finance local economic and social plans.

They present specific economic and social benefits within the meaning of the present article.

Article L512-86

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The savings bank network includes the Caisses d'épargne et de prévoyance, the local savings companies, the Caisse nationale des caisses d'épargne et de prévoyance and the Fédération nationale des caisses d'épargne et de prévoyance.

Article L512-87

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisses d'épargne et de prévoyance are cooperative societies subject, without prejudice to the provisions of the present section, to the provisions of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter and of Book II of the Commercial Code.

Article L512-88

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisses d'épargne et de prévoyance are credit institutions and may, notwithstanding the provisions of Article 3 of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, carry out all banking transactions.

Article L512-89

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The membership shares of the Caisses d'épargne et de prévoyance may only be held by local savings companies.

The articles of association of the Caisses d'épargne et de prévoyance may provide that the number of votes allocated to each local association be a function of the number of units it holds. When the portion of the capital held by a local savings company in the Caisse d'épargne et de prévoyance to which it is affiliated exceeds 30% of the total voting rights, the number of votes allocated to it is reduced pro tanto. The percentage of the votes which may be held globally by the local savings companies composed mainly of legal entities cannot exceed 49%.

Article L512-90

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 29 I, Official Journal of 12 December 2001)

The Caisses d'épargne et de prévoyance are managed by an Executive Board under the supervision of a Supervisory Board. The latter is known as the Guidance and Supervision Board.

The Guidance and Supervision Board is composed of seventeen members.

It includes, pursuant to the articles of association:

1. Members directly elected by the employee members of the Caisse d'épargne et de prévoyance;

2. Members directly elected by the territorial authorities, members of the local savings companies affiliated to the Caisse d'épargne et de prévoyance;

3. Members elected by the general meeting of members of the Caisse d'épargne et de prévoyance. Neither the territorial authorities nor the employees of the Caisse d'épargne et de prévoyance may be elected in this way.

On each Guidance and Supervision Board, the number of the members elected by the employees is identical to that of the members elected by the territorial authorities and cannot be greater than three.

In the event of Caisses d'épargne et de prévoyance merging, either through amalgamation or the creation of a new legal entity, the number of members of the Guidance and Supervision Board of the caisse produced by the merger may exceed seventeen for a maximum period of three years from the date of the merger, subject to their distribution between the different member categories being as stipulated in the fourth to seventh paragraphs above. In such cases, the Administration and Supervision Board shall consist of not more than thirty-four members and the number of members elected by the employees and the number elected by the territorial authorities shall not exceed six.

Failing agreement thereon between the institutions concerned, the total number of Guidance and Supervision Board members and their distribution by category may be determined by the Caisse nationale des caisses d'épargne et de prévoyance.

The members of the Executive Board are proposed by the Guidance and Supervision Board. The Executive Board of the Caisse nationale des caisses d'épargne et de prévoyance verifies that they have the requisite respectability and experience for that function and proposes them to the Supervisory Board of the Caisse nationale des caisses d'épargne et de prévoyance for approval. When that board has granted its approval, the caisse d'épargne et de prévoyance's Guidance and Supervision Board appoints the members of the Executive Board.

Without prejudice to application of the provisions of Article L. 613-21, approval may be withdrawn by the Supervisory Board of the Caisse nationale des caisses d'épargne et de prévoyance on a proposal from its Executive Board after consultation with the Guidance and Supervision Board of the Caisse d'épargne et de prévoyance concerned. Withdrawal of approval entails dismissal of the person concerned.

Article L512-91

(Act No. 2001-624 of 17 July 2001 Art. 36 III Official Journal of 18 July 2001)
(Finance Act No. 2003-1311 of 30 December 2003 Art. 60 II for 2004 Official Journal of 31 December 2003)
(Order No. 2005-429 of 6 May 2005 Art. 61 Official Journal of 7 May 2005)

The sums available after allocation to the net book profits of the payments to the legal and statutory reserves are distributed by the General Meeting between the interest applied to the membership shares, the distributions made pursuant to Articles 11 bis, 18 and 19 vicies of the Act of 10 September 1947 relating to the cooperative charter, the retained earnings and the allocations to the financing of local economic and social plans. The retained earnings must represent at least one third of the sums available as described in the present article. That proportion may be increased, however, on a decision of the Caisse nationale des Caisses d'épargne et de prévoyance in view of the financial situation of the Caisse d'épargne et de prévoyance in question.

The sums allocated to the financing of local economic and social plans for each Caisse d'épargne et de prévoyance cannot exceed the total amount of the interest applied to the membership shares and the distributions made pursuant to Articles 11 bis, 18 and 19 vicies of the aforementioned Act No. 47-1775 of 10 September 1947, or be less than one third of the sums available after the interest is applied.

The return on the securities referred to in Parts II quater and II quinquies of the aforementioned Act No. 47-1775 of 10 September 1947 is not included in the calculation of the total amount of the sums allocated to the financing of local economic and social plans referred to in the previous paragraph when those securities are directly or indirectly held by the Caisse nationale des Caisses d'épargne et de prévoyance or by a savings bank or provident institution.

The missions specified in Article L. 512-85 and the local economic and social plans must present an interest in terms of local development, regional development or environmental protection, or in terms of social development or employment. Each Caisse d'épargne et de prévoyance takes account of the directives of the Fédération nationale des Caisses d'épargne et de prévoyance when choosing local economic and social plans in its own constituency or making its contribution to regional or national actions undertaken by the network. The local economic and social plans financed

by the Caisses d'épargne et de prévoyance are the subject of a detailed appendix to the annual report of the Caisse nationale des Caisses d'épargne et de prévoyance.

Subsection 4
Local Savings Companies — Articles L512-92 to L512-93

Article L512-92
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 29 II, Official Journal of 12 December 2001)

Local savings companies are cooperative societies subject to the provisions of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, without prejudice to the provisions of the present section.

They contribute, within the framework of the public interest functions entrusted to them, to the drafting of the general directives of the Caisse d'épargne et de prévoyance to which they are affiliated. They also have as their purpose, within the framework of those general directives, encouragement of the widest possible unit holding in that Caisse d'épargne et de prévoyance through promotions to the membership.

To facilitate such unit holding, the local savings companies are authorised to offer the members referred to in Article L. 512-93 an initial unit at a preferential price.

Local savings companies cannot carry out banking transactions. They are exempted from registration in the Trade and Companies Register. They are affiliated to the Caisse d'épargne et de prévoyance in the territorial division in which they conduct their business.

The rate of return on the units held by the members of the local savings companies is determined by the general meeting of the Caisse d'épargne et de prévoyance to which those local savings companies are affiliated.

The creation of a local savings company requires prior approval from the Caisse d'épargne et de prévoyance to which the local savings company is affiliated, and also from the Caisse nationale des caisses d'épargne et de prévoyance.

All the local savings companies affiliated to each Caisse d'épargne et de prévoyance constitute a single entity for the application of Article 145 of the General Tax Code.

The provisions of Article 16 of the aforementioned Act No. 47-1775 of 10 September 1947 do not apply to local savings companies.

Article L512-93
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The following may become members of a local savings company, as stipulated in the articles of association, natural persons or legal entities having carried out a transaction referred to in Articles L. 311-1, L. 311-2, L. 511-2 and L. 511-3 with the Caisse d'épargne et de prévoyance, the employees of that Caisse d'épargne et de prévoyance, the territorial authorities and, under the conditions laid down in Article 3a of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, the other natural persons or legal entities referred to in that article. However, the territorial authorities cannot collectively hold more than 20% of the capital units of each local savings company.

Any member of a local savings company wishing to liquidate some or all of his units within the framework of the provisions of the aforementioned Article 18 of Act No. 47-1775 of 10 September 1947 may only resell them at their nominal value to the local savings company he belongs to.

Each local savings company may only resell the units bought from its members at their nominal value.

Subsection 5
The Caisse nationale des caisses d'épargne et de prévoyance — Articles L512-94 to L512-98

Article L512-94
(Amending Finance Act No. 2003-1312 of 30 December 2003, Article 100, for 2003, Official Journal of 31 December 2003)

The Caisse nationale des caisses d'épargne et de prévoyance is a public limited company with an Executive Board and a Supervisory Board governed by Articles L. 225-57 to L. 225-93 of the Commercial Code in which the Caisses d'épargne et de prévoyance collectively hold at least an absolute majority of the capital units and voting rights. It is a credit institution. It is authorised to provide the investment services referred to in Articles L. 321-1 and L. 321-2.

The Supervisory Board of the Caisse nationale des caisses d'épargne et de prévoyance is composed of members elected by the employees of the savings bank network as stipulated in its articles of association. The appointment of the chairman of the Executive Board of the Caisse nationale des caisses d'épargne et de prévoyance is subject to approval from the Minister for the Economy.

I. - (Provisions declared non-compliant with the Constitution by decision of the Constitutional Council No. 2003-488 DC of 29 December 2003.)

II. - The opinion of the supervisory committee of the Caisse des dépôts et consignations is sought before any transaction involving the capital of the Caisse nationale des caisses d'épargne et de prévoyance takes place which affects the Caisse des dépôts et consignations' participation. It informs the Commissions responsible for the finances of the National Assembly and the Senate thereof.

Article L512-95

(Order No. 2005-429 of 6 May 2005 Art. 62 Official Journal of 7 May 2005)

I. - The Caisse nationale des Caisses d'épargne et de prévoyance is the central body of the savings bank network. It proposes the creation of Caisses d'épargne et de prévoyance to the Credit Institutions and Investment Firms Committee. It is moreover responsible for:

1. Representing the savings bank network, in its capacity as an employee and otherwise, to assert its rights and common interests;

2. Negotiating and entering into national and international agreements on behalf of the savings bank network;

3. Drawing up model memoranda and articles of association for the Caisses d'épargne et de prévoyance and local savings companies;

4. Creating or acquiring any company or any organisation which is beneficial to the development of the savings bank network's business, and providing supervision therefor, or acquiring equity holdings in such companies or organisations;

5. Implementing any administrative, financial or technical decision pertaining to the organisation and management of the Caisses d'épargne et de prévoyance, their subsidiaries and their common bodies, including those relating to computing facilities;

6. Taking any measure relating to the creation of new Caisses d'épargne et de prévoyance or the removal of existing Caisses d'épargne et de prévoyance, through either a voluntary winding-up or a merger;

7. Defining the products and services offered to customers and coordinating the commercial policy;

8. Centralising the surplus resources of the Caisses d'épargne et de prévoyance;

9. Executing any financial transaction beneficial to the development and refinancing of the network, particularly in regard to the management of its liquidity and its exposure to market risks;

10. Taking all measures conducive to the organisation, correct operation and development of the savings bank network, and calling for the contributions required to fulfil its role as the savings bank network's central body;

11. Ensuring application, by the Caisses d'épargne et de prévoyance, of the public interest functions set out in Article L. 512-85.

II. - The Caisses d'épargne et de prévoyance are automatically affiliated to the Caisse nationale des Caisses d'épargne et de prévoyance. A Conseil d'Etat decree determines the circumstances and conditions under which credit institutions controlled by the Caisses d'épargne et de prévoyance or institutions whose activities are essential to the savings bank network's operations may be affiliated to the Caisse nationale des Caisses d'épargne et de prévoyance to enable it to carry out the missions specified in Article L. 511-31.

Article L512-96

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisse nationale des caisses d'épargne et de prévoyance provides the depositors' and the subscribers' guarantee. It takes all necessary measures to guarantee the liquidity and the solvency of the Caisses d'épargne et de prévoyance and to organise financial solidarity in the savings bank network, specifically through the creation of a common guarantee and network solidarity fund.

Definition of that fund's organisational, operational and management rules falls within the exclusive competence of the Caisse nationale des caisses d'épargne et de prévoyance. The Caisse nationale des caisses d'épargne et de prévoyance may call for contributions from the Caisses d'épargne et de prévoyance as and when necessary to constitute or reconstitute the common guarantee and network solidarity fund.

Article L512-97

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Executive Board of the Caisse nationale des caisses d'épargne et de prévoyance designates a censor for each Caisse d'épargne et de prévoyance. It may also designate one for any other affiliated institution within the meaning of II of Article L. 512-95.

The censor is responsible for ensuring that the Caisse d'épargne et de prévoyance or other institution to which he is appointed complies with the laws and regulations in force and the rules and directives issued by the Caisse nationale des caisses d'épargne et de prévoyance within the framework of its remit.

The censor participates, without a vote, in the meetings of the Guidance and Supervision Board of the Caisses d'épargne et de prévoyance or, for other institutions, the Board of Directors or the Supervisory Board. He may request that any subject be placed on the agenda and ask for a second decision on any question within his remit. In the latter case, he refers the question to the Caisse nationale des caisses d'épargne et de prévoyance without delay. He is informed of that institution's decisions and is heard, at his request, by the Executive Board of the Caisse d'épargne et de prévoyance or by that institution's governing structures.

Article L512-98

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisse nationale des caisses d'épargne et de prévoyance may, on a proposal from the censor, effect collective dismissal of the Executive Board or the Guidance and Supervision Board of a Caisse d'épargne et de prévoyance in the event of it ceasing to exercise its functions or taking decisions contrary to the laws or regulations or to the instructions issued within the framework of its powers by the Caisse nationale des caisses d'épargne et de prévoyance. In this situation, it appoints a committee which temporarily assumes the functions of the Executive Board or the Guidance and Supervision Board of the Caisse d'épargne et de prévoyance pending the appointment of a new Executive Board or Guidance and Supervision Board.

Subsection 6

The Fédération nationale des caisses d'épargne et de prévoyance — Articles L512-99 to L512-100

Article L512-99

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Fédération nationale des caisses d'épargne et de prévoyance is constituted in accordance with the terms and conditions laid down in the Act of 1 July 1901 relating to partnership agreements. It brings all the Caisses d'épargne et de prévoyance together, each being represented by two members of their Guidance and Supervision Board, including the chairman, and by the chairman of their Executive Board.

The Fédération nationale des caisses d'épargne et de prévoyance is responsible for:

1. Coordinating the relations of the Caisses d'épargne et de prévoyance with the membership and representing their common interests, particularly in relation to the public authorities;

2. Participating in the determination of the network's strategic positioning;

3. Defining the national financing objectives of the Caisses d'épargne et de prévoyance for the local economic and social plans and public interest missions as specified in Article L. 512-85;

4. Contributing to the formulation, by the Caisse nationale des caisses d'épargne et de prévoyance, of the national objectives for the network's social relations;

5. Organising training for the executives and members in conjunction with the Caisse nationale des caisses d'épargne et de prévoyance through regular free information sessions on a broad range of topics in the economic sphere;

6. Ensuring compliance with the ethical rules within the savings bank network;

7. Contributing to the involvement of the French savings bank network in European institutions of the same kind.

The Fédération nationale des caisses d'épargne et de prévoyance is consulted by the Caisse nationale des caisses d'épargne et de prévoyance regarding any planned reform affecting the Caisses d'épargne et de prévoyance.

The Fédération nationale des caisses d'épargne et de prévoyance calls for contributions from the Caisses d'épargne et de prévoyance in order to finance its operating budget.

Article L512-100

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The savings banks may receive any gifts and bequests made in their favour in the forms, and pursuant to the rules, applicable to public benefit institutions.

Subsection 7

Reserve and Guarantee Fund — Article L512-101

Article L512-101

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A reserve and guarantee fund for the Caisses d'épargne et de prévoyance exists within the Caisse des dépôts et consignations.

The terms of allocation for that reserve are determined by the regulations.

The reserve and guarantee fund of the Caisses d'épargne et de prévoyance is managed by the Caisse des dépôts et consignations under the control of the supervisory committee, as determined in Article L. 518-7.

These activities are reported in a special chapter of the annual report presented to Parliament by the supervisory committee pursuant to Article L. 518-10.

Subsection 8

General Provisions — Articles L512-102 to L512-105

Article L512-102

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Use of the designations "Caisse nationale des caisses d'épargne et de prévoyance", "Caisse d'épargne et de prévoyance", "caisse d'épargne" [savings bank] or "société locale d'épargne" [local savings company] by any entity which does not come within the scope of the present section is prohibited.

Article L512-103

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The use of any process to forge passbooks, prospectuses or posters, or any other which is likely to create confusion with the savings banks and mislead the public concerning the nature of the transactions concerned is also prohibited.

Article L512-104

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree stipulates the implementing regulations for the present section.

Article L512-105

(inserted by Act No. 2005-842 of 26 July 2005 Art. 25 II Official Journal of 27 July 2005)

For application of the last paragraph of Article L. 512-1, the cooperative banks for the savings bank network are the

Article L513-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Limited-liability real-property credit companies are governed by Articles L. 422-4 to L. 422-4-3 of the Building and Housing Code.

Article L514-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - The municipal credit banks are local public lending and welfare institutions. Their role is to combat usury through the awarding of loans secured by pledge, in respect of which they have a monopoly. They may execute any transaction with the credit institutions, receive funds from natural persons and legal entities, make means of payment available to them, and effect related transactions with them within the meaning of Article L. 311-2.

II. - They conduct their business after having obtained authorisation from the Credit institutions and Investment Companies Committee. Such authorisation may include, consistent with the bank's technical and financial resources, authorisation for it to engage in one or more of the following activities:

1. The awarding of loans to natural persons;

2. The awarding of loans to local public institutions and associations governed by the Act of 1 July 1901 relating to partnership agreements conducting their business in the bank's normal catchment area and whose corporate purpose is of social or cultural interest.

The banks may, either individually or collectively, hold the units or shares of companies and create associations which contribute to the development of the business that they are authorised to conduct.

The municipal credit banks may freely assign the property, rights and obligations corresponding to their business other than lending secured by pledge.

They may also contribute such property, rights and obligations to public limited companies governed by Book II of the Commercial Code whose corporate purpose is limited to the activities, other than lending secured by pledge, which the municipal credit banks may engage in. They hold shares in those companies in proportion to their contributions. The said companies are authorised by the Credit institutions and Investment Companies Committee under the conditions and subject to the limits stipulated in the first four paragraphs.

The equity interests held by the municipal credit banks are transferable. To ensure their universal transferability, the contributions referred to in the previous paragraph are deemed to be placed under the legal system applicable to demergers.

Article L514-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The municipal credit banks are instituted by decree countersigned by the Minister for the Economy and the Minister for the territorial authorities, at the request of the Municipal Council(s) concerned.

The banks are administered by a manager under the supervision of a Guidance and Supervision Board.

The manager is appointed by the mayor of the commune in which the bank has its registered office, after consulting the Guidance and Supervision Board.

The Guidance and Supervision Board is composed of the mayor of the commune in which the registered office is located, its ex officio chairman, and, in equal numbers, members elected by and from among the municipal council of that commune and members appointed by the mayor of that commune on account of their expertise in the financial or banking sphere(s).

The Guidance and Supervision Board defines the general directives and organisational rules of the municipal credit bank and exercises permanent supervision of the manager's administration of the institution.

A Conseil d'Etat decree determines the Guidance and Supervision Board's other areas of competence and the categories of duties other than day-to-day management tasks whose performance is subject to its prior authorisation.

The Guidance and Supervision Board ensures compliance with the general regulations of the banking profession and the laws and regulations applicable to municipal credit banks. To that end, it carries out the verifications and inspections which it considers appropriate and calls for the documents which it deems useful for the accomplishment of its mission.

The commune in which the bank has its registered office is considered to be the sole shareholder or member of the

institution for application of the provisions of Article L. 511-42.

The annual and supplementary budgets of the municipal credit bank and the financial account, after their adoption by the Guidance and Supervision Board, are sent for information to the municipal council of the commune in which the bank has its registered office.

An annual report relating to the business and the financial situation of the municipal credit bank is presented to the municipal council by the mayor during the session preceding that at which the commune's initial budget must be adopted.

Any plan which would alter the scope of the municipal credit bank's banking activities or the acts pertaining to the free disposal of its assets, the list of which is determined by decree consistent with the criteria of threshold or scale, is made known to the municipal council in advance by the mayor, who states the reasons therefor.

Article L514-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 9, Official Journal of 2 August 2003)

The organisation and running of the municipal credit banks, including the remit of the Guidance and Supervision Board and the financial system, are determined by Conseil d'Etat decrees issued on the basis of a report from the Minister for the Economy.

Article L514-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The decrees referred to in Article L. 514-3 determine the rules under which the surpluses appearing at the end of the accounting period and those acquired following enforcement of pledges are allocated to the municipal credit banks' provisions. If those surpluses are not fully used in that way, the remainder thereof is allocated to other social welfare organisations.

CHAPTER V
Finance Companies — Articles L515-1 to L515-34

SECTION I
Common Provisions — Article L515-1

Article L515-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

The finance companies referred to in Article L. 511-9 cannot receive funds from the public for on-demand deposits or term deposits of less than two years unless they are subsidiarily authorised to do so under the conditions laid down by the Minister for the Economy.

Finance companies may only carry out the banking transactions approved by the authorisation they have received or by the laws and regulations specific to them.

SECTION II
Plant and Real-Property Leasing Companies — Articles L515-2 to L515-3

Article L515-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The leasing transactions referred to in Article L. 313-7 may only be carried out on a regular basis by commercial companies authorised as a credit institution.

Property leasing companies are companies which, in the normal course of their business, manage companies created with a view to occasionally carrying out the transactions referred to in Article L. 313-7. They are subject to the provisions of the previous paragraph.

Article L515-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Companies referred to in Article L. 515-2 which contravene the provisions of the present Code or its implementing legislation shall incur the disciplinary sanctions referred to in Article L. 613-21.

SECTION III
Mutual Guarantee Societies — Articles L515-4 to L515-12

Subsection 1
Function — Article L515-4

Article L515-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Amending Finance Act No. 2001-1276 of 28 December 2001 Article 51 III, Official Journal of 29 December 2001

Mutual guarantee societies may be formed between shopkeepers, industrialists, manufacturers, tradespeople, commercial companies and members of the liberal professions. Their purpose is to grant guarantees to their members in connection with their professional activities.

Moreover, mutual guarantee societies may be formed between the owners of real property or real-property rights. Their purpose is to grant guarantees to their members in connection with loans contracted to facilitate home ownership or improvements and repairs to their properties.

The companies referred to in the first and second paragraphs are authorised to provide their members with the consultancy services referred to in 5 of Article L. 311-2 when such services are directly linked to a guarantee, although the applicant for a guarantee shall not be obliged to accept a consultancy service.

The guarantee may be provided through an aval or endorsement of negotiable debt instruments and bills created, underwritten or endorsed by the members of the companies, or in any other form.

The capital of the mutual guarantee societies consists of registered units which may be of unequal value, subject to a minimum of 1.5 euros, and may be subscribed by the non-participating members who are only entitled to a return on their contributions, as well as the members who participate in the company's profits.

The companies are not constituted until one quarter of the subscribed capital is paid up. Notwithstanding the provisions of Article 12 of Act No. 47-1775 of 10 September 1947 relating to the cooperative charter, the balance is paid up through successive calls for the quarters not yet paid, consistent with the growth in the mutual guarantee transactions, to enable the company to adjust the amount of its fund to the volume of the transactions processed.

Subsection 2
Articles of Association — Articles L515-5 to L515-7

Article L515-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The mutual guarantee societies are commercial companies.

Article L515-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The articles of association determine the registered office location and the company's system of administration, the conditions that apply to amendment of those articles of association and dissolution of the company, the composition of the capital and the proportion in which each of the members contributes to its formation.

They determine the scope and conditions of the liability which each of the members shall incur in the company's commitments.

The articles of association give the members the right to leave and claim reimbursement of the units which belong to them. However, the said right may only be used at the end of an accounting period, subject to three months' notice and provided that the reimbursement of the said units does not have the effect of reducing the company's capital to a level below the minimum which its credit-institution status requires it to maintain.

The reimbursement cannot exceed either the value of the departing member's units at that time, or their nominal value. Any capital gain belongs to the reserve fund, over which the reimbursed member has no rights.

Article L515-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The articles of association provide for the Board of Directors to determine the maximum amount of the guarantees which may be granted to each member and to limit the term for which they are granted.

They expressly stipulate that the Board of Directors may refuse a guarantee request, or grant it only with the security it considers appropriate.

Subsection 3
Application of Funds — Articles L515-8 to L515-9

Article L515-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The capital, the reserve fund and the guarantee fund are applied to secure guarantees granted by the company to constitute a provision for the bills, notes and commitments in the event of non-payment. The directors are required, before starting to provide any guarantee, to explain, in a declaration filed in duplicate with the registry of the District Court having jurisdiction at the place where the company has its registered office, the use they have made of the capital (investments in securities or bank deposits). A receipt is issued for that declaration. The District Court judge sends one original to the registry of the competent Commercial Court.

Each year, a declaration in the same form must account for the use made of the capital and the reserve fund.

The articles of association determine the arrangements for the constitution, use and reconstitution of the guarantee fund.

Article L515-9
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The articles of association determine the deductions and commissions collected for the benefit of the company on the transactions it enters into.

A reserve fund, known as the "statutory reserve" and equal to half of the share capital, is created as provided for in the first paragraph of Article L. 232-10 of the Commercial Code.

Without prejudice to the possibility of paying interest as provided for in the articles of association on the capital effectively paid up, the operating surpluses are allocated to reserves or refunded to the members in proportion to the transactions entered into with them.

Upon dissolution of the company, the reserve fund and the other net assets are shared between the members in proportion to their subscriptions unless the articles of association provide for their allocation to a charitable application.

Subsection 4
Publication Obligations — Articles L515-10 to L515-12

Article L515-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The publication obligations imposed on ordinary commercial companies are replaced, in regard to mutual guarantee societies, by the following provisions:

1. Before any business is transacted, the articles of association, along with a complete list of the directors or managers and the members, indicating their name, occupation, domicile and the amount of each subscription, are filed in triplicate with the registry of the District Court having jurisdiction at the place where the company has its registered office. A receipt is issued therefor;

2. In the first half of February of each year, the manager or a director of the company likewise files in triplicate a statement indicating the number of members the company had on that date and a list of any changes that have taken place among the directors or managers and the members since the last filing, and, moreover, a summary table of the income and expenditure and the business transacted during the previous year;

3. The District Court judge sends one original thereof to the registry of the competent Commercial Court;

4. The documents filed with the registries of the District Court and the Commercial Court pursuant to the present article and Article L. 515-8 are provided to any requester.

Article L515-11
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The directors of a mutual guarantee society are personally liable for the damage resulting from any breach of the articles of association or the provisions of the present section.

Article L515-12
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The implementing regulations for the present section are determined in a Conseil d'Etat decree.

SECTION IV
Real-Property Credit Companies — Articles L515-13 to L515-33

Subsection 1
Status and Function — Article L515-13

Article L515-13
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 94 1, Official Journal of 2 August 2003)

I. - Real-property credit companies are credit institutions accredited with finance-company status by the Credit institutions and Investment Companies Committee. Their sole purpose is:

1. To grant or acquire guaranteed loans, loans to public legal persons, and the securities referred to in Articles L. 515-14 to L. 515-17;

2. To issue bonds, known as real-property bonds, which have preferred status as described in Article L. 515-19, to finance such categories of loans or securities and instruments, and to acquire other facilities having an issuing contract or subscription which refers to that preferred status.

II. - Real-property credit companies may also provide financing for the activities referred to above through the issue of bonds or facilities which do not have such preferred status. They cannot issue the promissory notes referred to in Articles L. 313-42 to L. 313-48.

III. - Notwithstanding any legal or contractual provision to the contrary, real-property credit companies may, pursuant to Articles L. 313-23 to L. 313-34, refinance all the debts they hold, regardless of their nature, professional or otherwise. In which case, the statements on the advice note referred to in Article L. 313-23 are determined by decree. Real-property credit companies may also effect temporary assignments of their securities, as provided for in Articles L. 432-6 to L. 432-19. The debts or securities thus refinanced or assigned are not entered into those companies' accounts by virtue of Article L. 515-20.

IV. - Real-property credit companies may acquire and own any movable or immovable property which is necessary for the accomplishment of their corporate purpose or which derives from recovery of their debts.

Article L515-14

(Act No. 2001-1168 of 11 December 2001 Art. 31 I Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Art. 46 VI 2 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 63 Official Journal of 7 May 2005)

I. - Guaranteed loans are loans associated with:

1. A first-ranking mortgage or a charge over real property conferring an equivalent guarantee, at least;

2. Or, within limits and under conditions determined in a Conseil d'Etat decree, a minimum personal contribution from the borrower and compliance with a fixed portion of the value of the property financed and subject to the guaranteed loan being used solely to finance real property, a guarantee from a credit institution or an insurance company which is not included in the consolidation described in Article L. 233-16 of the Commercial Code relating to real-property companies.

II. - Loans guaranteed by a charge on real property as indicated in 1 of I above cannot exceed a portion of the value of the property to which the guarantee relates. The said portion is determined as provided for in a Conseil d'Etat decree. It may be exceeded, however, when such a loan benefits from the guarantee of the first-time homebuyers' guarantee fund referred to in Article L. 312-1 of the Building and Housing Code, or when the loan is covered, for the amount in excess of the fixed portion and subject to the limit of the value of the property to which the guarantee relates, by a guarantee which meets the conditions referred to in 2 of I above or by the guarantee of one or more of the public law legal entities referred to in Article L. 515-15.

That portion may be exceeded, in certain cases and within a limit determined in a Conseil d'Etat decree, when the amount in excess of the fixed portion is financed by non-preferred facilities as indicated in II of Article L. 515-13.

III. - The property used for the guarantee or the property financed by a guaranteed loan must be located in the European Economic Area, the Overseas Territories governed by Article 74 of the Constitution, New Caledonia, Switzerland, the United States of America, Canada or Japan. Its value is determined prudently and excludes any element of a speculative nature. The valuation procedures are determined in an order from the Minister for the Economy which indicates the cases in which a survey is required.

Article L515-15

(Act No. 2001-1168 of 11 December 2001 Art. 31 II Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Art. 95 1, Art. 96 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 64 Official Journal of 7 May 2005)

Loans to public legal persons are loans granted to States, territorial authorities, or groups thereof, and public institutions of the European Economic Area, Switzerland, the United States of America, Canada or Japan, or which are fully guaranteed by one or more of those States, territorial authorities or groups thereof.

Debt instruments issued by States, territorial authorities or groups thereof, and by public institutions of the European Economic Area, Switzerland, the United States of America, Canada or Japan, which are fully guaranteed by one or more of those States or territorial authorities or groups thereof are treated as loans to public legal persons. Such instruments must be acquired with the intention of holding them until maturity and therefore be treated, for accounting purposes, in accordance with the rules of the Regulatory Commission for Accounting.

Loans of sums of money, including those resulting from a successive performance contract, made to public legal persons referred to in the first paragraph and shown on a list determined pursuant to a Conseil d'Etat decree are treated as loans to public legal persons.

Debts deriving from leasing contracts which a French public legal person referred to in the first paragraph has entered into as lessee and debts deriving from leasing contracts which are totally guaranteed by one or more of those public legal persons are treated as loans to public legal persons. Real-property credit companies that acquire debts resulting from a leasing contract may also acquire all or part of the debt that will result from the sale of the leased property.

Article L515-16

(Act No. 2001-1168 of 11 December 2001 Art. 31 III Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Art. 95 3 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 65 Official Journal of 7 May 2005)

The units and debt instruments of securitisation funds and the units and debt instruments issued by similar entities subject to the law of a State belonging to the European Economic Area, Switzerland, the United States of America, Canada or Japan, provided that the assets of those securitisation funds or similar entities, excluding sums temporarily available and pending allocation, consist of guarantees, sureties or other liens from which they benefit, at a level of at least 90%, and debts of the same kind as the loans having the characteristics indicated in the first three paragraphs of Article L. 515-14 and in Article L. 515-15 or, as provided for in a Conseil d'Etat decree, debts accompanied by guarantees equivalent to those of the loans referred to in Articles L. 515-14 and L. 515-15, excluding the specific units or debt instruments bearing the insolvency risk of their debtors, are treated as loans referred to in Articles L. 515-14 and L. 515-15.

Article L515-17

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Real-property credit companies cannot hold equity interests.

A Conseil d'Etat decree determines the circumstances in which securities and instruments, including real-property bonds issued by other real-property credit companies, are secure and liquid enough to be held as replacement instruments by real-property credit companies. The said decree determines the maximum portion that such replacement instruments may represent in the assets of those companies.

Article L515-18

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 94 2, Official Journal of 2 August 2003)

In order to ensure coverage of the management transactions of the loans referred to in Articles L. 515-14 to L. 515-17, real-property bonds or other facilities benefiting from the preferred status defined in Article L. 515-19, real-property credit companies may have recourse to financial futures, as defined in Article L. 211-1.

The sums due under the financial futures contracts entered into by real-property credit companies to cover their assets and liabilities elements, if applicable after clearing, have preferred status within the meaning of Article L. 515-19 in the same way as the sums due under the financial futures contracts entered into by real-property credit companies to manage or cover the global risk on their assets, liabilities and off-balance-sheet items.

The sums due under the financial futures contracts used to cover the transactions referred to in II of Article L. 515-13 do not have such preferred status.

Subsection 3
Preferential Status of Debts Deriving from the Transactions — Article L515-19

Article L515-19

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 96 II 1, Official Journal of 2 August 2003)

Notwithstanding any legislative provisions to the contrary, including those of Part I and Part II of Book VI of the Commercial Code:

1. The sums deriving from the loans, similar debts, securities and instruments referred to in Articles L. 515-14 to L. 515-17, financial instruments referred to in Article L. 515-18, after settlement if applicable, and debts resulting from deposits made with credit institutions by real-property companies, are allocated prioritarily to servicing payment of the real-property bonds and other preferred facilities referred to in 2 of I of Article L. 515-13;

2. When judicial reorganisation or liquidation proceedings, or amicable settlement proceedings, are instituted against a real-property company, the debts duly deriving from the transactions referred to in 2 of I of Article L. 515-13 are paid on their contractual due date and with priority over all other debts, regardless of whether the latter have preferred status or sureties, including interest resulting from contracts, regardless of the term thereof. Until the holders of preferred debts within the meaning of the present article are fully paid off, no other creditor of the real-property company may avail itself of any right over that company's property and rights;

3. The judicial liquidation of a real-property company does not have the effect of making the bonds and other preferred debts referred to au 1 of the present article payable.

The rules laid down in 1 and 2 above apply to the fees associated with the transactions referred to in 1 and 2 of I of Article L. 515-13 and also to the sums, if any, due under the contract provided for in Article L. 515-22.

Subsection 4
Rules Governing the Real-Property Credit Companies' Transactions — Articles L515-20 to L515-24

Article L515-20

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

The total amount of the real-property credit companies' assets elements must be greater than the amount of their liabilities elements having preferred status as indicated in Article L. 515-19. The Minister for the Economy determines the valuation procedures for those assets and liabilities elements.

Article L515-21

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 96 III 1, Official Journal of 2 August 2003)

The assignment to a real-property company of the loans referred to in Article L. 515-13 along with the associated debts is made by way of notification to the assignee, the wording of which is determined by decree. Notwithstanding the initiation of any judicial reorganisation or liquidation proceedings against the assignor subsequent to the assignment, the assignment takes effect between the parties and becomes binding on third parties on the date indicated on the notification as the date of service, regardless of the origination date, maturity date or due date of the debts, and without any other formality being necessary, regardless of the law applicable to debts and the law of the country of domicile of the debtors. Service of the notification shall automatically entail the transfer of the sureties, guarantees and ancillary items attached to each loan, including the mortgage securities, as well as its enforceability against third parties, without any other formality being necessary.

When the debts derive from a leasing contract, the commencement of judicial reorganisation or liquidation

proceedings against the assigning lessor during the term of the contract shall not jeopardize the continuance of the leasing contract.

Article L515-22
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 96 II 2, Official Journal of 2 August 2003)
The administration or recovery of the loans, similar debts, securities and instruments, bonds or other facilities referred to in Article L. 515-13 may only be carried out by a credit institution bound to the real-property company by contract.

Article L515-23
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 96 II 3, Official Journal of 2 August 2003)
The credit institution responsible for the administration of the loans, similar debts, and securities and instruments is authorised to bring legal proceedings, whether as plaintiff or defendant, and to exercise all enforcement procedures for and on behalf of the real-property company.

Article L515-24
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 96 II 4, Official Journal of 2 August 2003)
In the event of a change to the legal entity responsible for administering or recovering the loans or similar debts, the debtors are informed thereof by simple letter.

Subsection 5
Judicial Reorganisation and Liquidation — Articles L515-25 to L515-28

Article L515-25
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The provisions of Article L. 621-108 of the Commercial Code are not applicable to contracts entered into by or with real-property companies, or to legal transactions carried out by real-property companies or on their behalf, given that such contracts or such transactions are directly related to the transactions referred to in Article L. 515-13.

Article L515-26
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
When a provisional administrator or a liquidator has been appointed to a real-property company pursuant to Articles L. 613-18 and L. 613-22, the provisions of Article L. 613-25 are applicable.

Article L515-27
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Notwithstanding any provision to the contrary, including Part II of Book VI of the Commercial Code, the judicial reorganisation or liquidation of a company holding shares in a real-property company cannot be extended to the real-property company.

Article L515-28
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 96 III 2, Official Journal of 2 August 2003)
In the event of the judicial reorganisation or liquidation of a company responsible for administering or recovering loans, similar debts, instruments and securities, bonds or other facilities referred to in Article L. 515-13 on behalf of a real-property company, the contracts which provide for that administration or recovery may be immediately cancelled, notwithstanding any provision to the contrary, including those of Part II of Book VI of the Commercial Code.

Subsection 6
Inspections — Articles L515-29 to L515-31

Article L515-29
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The Banking Commission monitors the real-property credit companies' fulfilment of the obligations they assume under the present section and penalises any recorded non-fulfilment as provided for in Articles L. 613-1 to L. 613-8, L. 613-10 to L. 613-23, and L. 613-25 to L. 613-30.

Article L515-30
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 95 2, Official Journal of 2 August 2003)
In each real-property credit company, a special inspector and a deputy special inspector chosen from among the persons included on the list of auditors are appointed for a term of four years by the company's executives, subject to a positive opinion from the Banking Commission.
The deputy special inspector is called upon to replace the incumbent in the event of refusal, impediment,

resignation or death. His functions cease on the expiry date of the remit entrusted to the latter, unless the impediment is only of a temporary nature. In the latter case, when the impediment has ceased, the incumbent resumes his functions after drawing up the report referred to in the fifth paragraph of the present article.

The auditor of the real-property company, the auditor of any company controlling the real-property company within the meaning of Article L. 233-3 of the Commercial Code, or the auditor of a company directly or indirectly controlled by a company controlling the real-property company, cannot be appointed as the special inspector or deputy special inspector.

The inspector ensures that the company complies with Articles L. 515-13 to L. 515-20. He verifies that the contributions made to the real-property company are compatible with the objective defined in Article L. 515-13 and meet the conditions set forth in Articles L. 515-14 to L. 515-17.

The inspector certifies the documents sent to the Banking Commission in regard to compliance with the preceding provisions. He prepares an annual report on the accomplishment of his mission for the company's executives and deliberative structures, a copy of which is sent to the Banking Commission.

He may attend any meeting of shareholders and may address the Board of Directors or the Executive Board upon request.

The inspector, like his staff and his experts, is bound by professional secrecy in regard to the facts, acts and information he has knowledge of on account of his functions. He is nevertheless released from professional secrecy in regard to the Banking Commission, to which he is required to immediately report any fact or decision he has become aware of in the performance of his duties and which could jeopardize the situation or continued exploitation of the real-property company. Professional secrecy is also lifted, within the framework of their respective duties, between the special inspector and the auditors of the real-property company and of any controlling company of the real-property company within the meaning of Article L. 233-3 of the Commercial Code. The special inspector shall reveal to the Public Prosecutor any criminal acts of which he has knowledge, without incurring liability in relation to that revelation.

He is liable towards both the company and third parties for the prejudicial consequences of any breach or negligence committed by him in the performance of his functions.

Article L515-31

(Act No. 2003-706 of 1 August 2003 Art. 96 5 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 66 Official Journal of 7 May 2005)
(Order No. 2005-1126 of 8 September 2005 Art. 22 Official Journal of 9 September 2005)

When a real-property credit company is the subject of judicial reorganisation or liquidation proceedings, the special inspector makes the declaration stipulated in Article L. 621-43 of the Commercial Code for and on behalf of the holders of the preferred debts referred to in Article L. 515-19.

The provisions of Articles L. 823-7, L. 823-13, L. 823-14, L. 823-18, L. 822-18, L. 820-4 to L. 820-7, L. 822-6, L. 822-7 and L. 822-10 to L. 822-13 of the Commercial Code and Article L. 613-9 of the present code apply to the inspector. The Banking Commission may exercise the action provided for in Article L. 823-7 of the Commercial Code.

Notwithstanding the provisions of Article L. 823-14 of the Commercial Code, the inspector's right to information may extend to communication of the contracts and other documents held by the company responsible for administering or recovering the loans, similar debts, securities and instruments, bonds and other facilities, pursuant to Article L. 515-22, provided that those contracts and other documents are directly related to the tasks performed by that company on behalf of the real-property credit company.

SECTION VII
Miscellaneous Provisions — Articles L515-32 to L515-33

Article L515-32

(Act No. 2003-706 of 1 August 2003 Art. 95 3 Official Journal of 2 August 2003)
(Order No. 2004-604 of 24 June 2004 Art. 52 X Official Journal of 26 June 2004)

Article L. 228-39 and the third paragraph of Article L. 225-100 of the Commercial Code are not applicable to mortgage lenders.

Article L515-33

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The implementing regulations for the present section are determined in a Conseil d'Etat decree.

SECTION V
Limited-Liability Real-Property Credit Companies — Article L515-34

Article L515-34

(inserted by Order No. 2005-429 of 6 May 2005 Art. 67 Official Journal of 7 May 2005)

Limited-Liability Real-Property Credit Companies are governed by Articles L. 422-4 to L. 422-4-3 of the Building and Housing Code.

CHAPTER VI
Specialised Financial Institutions — Articles L516-1 to L516-2

Article L516-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The specialised financial institutions are credit institutions to which the State has entrusted a permanent public-interest mission. They cannot carry out banking transactions other than those relating to that mission, except subsidiarily.

Article L516-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

The specialised financial institutions cannot receive on-demand deposits or term deposits of less than two years from the public unless they are subsidiarily authorised to do so under the conditions laid down by the Minister for the Economy.

Article L517-1

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 2 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

A financial holding company is a financial institution within the meaning of Article L. 511-21 which has as its subsidiaries, exclusively or principally, one or more credit institutions or investment companies or financial institutions and which is not a mixed financial holding company within the meaning of Article L. 517-4 of the present code. At least one of those subsidiaries must be a credit institution or an investment firm.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L517-2

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

I. - For application of the additional supervision referred to in Chapter III of Part III of Book VI, the following terms shall have the meanings indicated below:

1 "Regulated entity": a credit institution, insurance company or investment firm having its registered office in an EU Member State or another European Economic Area Member State;

2 "Sectoral rules": the rules relating to the prudential supervision of the regulated entities;

3 "Financial sector": a sector composed of one or more entities belonging to the following sectors:

a) The banking and insurance services sector, which includes credit institutions, investment firms, financial institutions and companies of a financial nature whose registered office is located in an EU Member State or another European Economic Area Member State;

b) The insurance sector, which includes insurance companies, insurance groups, mutuals, mutual unions, provident institutions, provident unions, joint provident groups and reinsurance companies whose registered office is located in an EU Member State or another European Economic Area Member State.

The financial sector also includes, where applicable, one or more mixed financial holding companies;

4 "Proper authority": any national authority of an EU Member State or another European Economic Area Member State empowered by that State's laws or regulations to supervise the following categories of entities at an individual or group level:

a) Credit institutions;

b) Insurance companies;

c) Mutuals;

d) Provident institutions;

e) Investment firms;

5 "Proper authority concerned":

a) Any proper authority responsible for the consolidated sectoral supervision of the regulated entities belonging to a financial conglomerate;

b) The coordinator appointed pursuant to Article L. 633-2 of the present code, if other than the authorities referred to in a);

c) Other proper authorities, when the authorities referred to in a) and b) consider it appropriate.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L517-3

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

I. - A group within the meaning of Article L. 511-20 constitutes a financial conglomerate when the following conditions are met:

1 If the group's principal company is a regulated entity or at least one of the group's subsidiaries is a regulated entity and:

a) When the principal company is a regulated entity and is the parent company of a financial sector entity: either an entity which holds an equity interest in a financial sector entity, or an entity linked to a financial sector entity within the meaning of 3 of Article L. 511-20;

b) When the parent company is not a regulated entity, its business must be conducted mainly in the financial sector;

2 When at least one of the group's entities is in the insurance sector and at least one is in the banking and insurance services sector;

3 When the consolidated or aggregate business of the group's entities in the insurance sector and the consolidated or aggregate business of those entities in the banking and insurance services sector are substantial;

II. - The following are determined by the regulations:

1 The thresholds above which a group's business is deemed to be conducted mainly in the financial sector;

2 The thresholds above which the business in each sector is deemed to be substantial;

3 The thresholds, criteria or conditions based on which the proper authorities concerned may decide by mutual agreement not to regard the group as a financial conglomerate or not to apply the provisions relating to additional supervision to it.

III. - Any sub-group of a group which meets the criteria indicated in I of the present article is exempted from the additional supervision scheme if it belongs to a group identified as a financial conglomerate which is therefore subject to additional supervision. Nevertheless, the conglomerate's coordinator or the coordinator likely to be appointed pursuant to Article L. 633-2 for the sub-group's additional supervision may, through a grounded decision, make the sub-group subject to additional supervision as provided for in the regulations.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L517-4

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

A mixed financial holding company is a parent company, other than a regulated entity, having its registered office in an EU Member State or another European Economic Area Member State, which, with its subsidiaries, at least one of which must be a regulated entity, constitutes a financial conglomerate.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION II
General Provisions — Articles L517-5 to L517-9

Subsection 1
Financial Holding Companies — Article L517-5

Article L517-5

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

Financial holding companies are subject to the provisions of the second paragraph of Article L. 511-13, Article L. 511-21, Articles L. 511-35 to L. 511-38, L. 511-41, L. 571-3, L. 571-4, L. 613-8 to L. 613-11, L. 613-16, L. 613-18, L. 613-21 and L. 613-22 as determined in the regulations.

The auditors of such companies are also subject to all the provisions applicable to the auditors of credit institutions and investment firms.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Subsection 2
Financial Conglomerates — Articles L517-6 to L517-9

Article L517-6

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

Regulated entities belonging to a financial conglomerate are subject to the additional supervision provided for in the present subsection and in Articles L. 633-1 to L. 633-14, without prejudice to the sectoral rules applicable thereto.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L517-7

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

I. - The additional supervision applicable to conglomerates applies to regulated entities that meet one of the following criteria:

1 It is the group's principal company;

2 Its parent company is a mixed financial holding company having its registered office in an EU Member State or another European Economic Area Member State;

3 It is linked to another financial sector entity within the meaning of 3 of Article L. 511-20.

II. - In cases other than those referred to in I and in Article L. 633-14, when persons hold an equity interest in one or more regulated entities, or have a participating-interest link with such entities or exert substantial influence over them which does not derive from either an equity interest or a participating-interest link, the proper authorities concerned shall, by mutual agreement and from the standpoint of the additional supervision objectives, determine whether, and to what extent, additional supervision shall be applied to the regulated entities included in that grouping as if it were a financial conglomerate.

The conditions laid down in 2 and 3 of I of Article L. 517-3 must be met in order for such additional supervision to be applied.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L517-8

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

As determined in the regulations, regulated entities belonging to a financial conglomerate are subject to additional requirements in regard to the adequacy of their equity capital, transactions between the different entities within the conglomerate, concentration and management of risks and internal auditing.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L517-9

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 6 Official Journal of 16 November 2004)

Mixed financial holding companies whose coordinator is the Banking Commission are subject to the provisions of the second paragraph of Article L. 511-13, those of Articles L. 511-35 to L. 511-38 and the additional supervision referred to in Article L. 517-8.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

CHAPTER VIII
Institutions and Departments Authorised to Process Banking Transactions — Articles L518-1 to L518-28

SECTION I
General Provisions — Article L518-1

Article L518-1

(Act No. 2001-420 of 15 May 2001 Art. 143 I Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 46 III 10 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 68 Official Journal of 7 May 2005)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005)

The Trésor public, the Bank of France, the Post Office, as provided for in Article L. 518-25, the Issuing Institution of the Overseas Departments, the Overseas Issuing Institution and the Caisse des dépôts et consignations are not subject to the provisions of Chapters I to VII of the present Part.

The Caisse des dépôts et consignations and its subsidiaries constitute a public group in the service of the country's general interest and economic development. The said group fulfils public interest functions in support of the public policies pursued by the State and the local authorities and may engage in competitive activities.

Within this framework, the Caisse des dépôts et consignations is more specifically responsible for the management of regulated deposits and consignments, the protection of popular savings, the financing of social housing and the management of pension funds. It also contributes to local and national economic development, particularly in the spheres of employment, urban policy, combating exclusion from banking and finance, company start-ups and sustainable development.

The said institutions and departments may carry out the banking transactions provided for by the laws and regulations which govern them.

The orders of the Minister for the Economy issued pursuant to Articles L. 611-1, L. 611-3 and L. 611-4, and the rules of the Regulatory Commission for Accounting, may, without prejudice to the necessary adaptations, and as determined in a Conseil d'Etat decree, be extended to the Post Office, as provided for in Article L. 518-25, the Caisse des dépôts et consignations and local Treasury departments.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION II
The Caisse des dépôts et consignations — Articles L518-4 to L518-2-1

Article L518-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisse des dépôts et consignations is a special institution responsible for the administration of deposits, the provision of services relating to the funds whose management has been entrusted to it, and the exercising of other similar functions which are legally delegated to it.

The Caisse des dépôts et consignations is placed, in the most exceptional manner, under the supervision and guarantee of the legislative authorities.

It is organised via a Conseil d'Etat decree issued on a proposal from the supervisory committee.

Article L518-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Decrees whose implementation requires the collaboration of the Caisse des dépôts et consignations are issued on the basis of a report from, or after the involvement of, the Minister for the Economy, and after the opinion of the supervisory committee has been sought.

Article L518-2-1
(Act No. 2005-842 of 26 July 2005 Art. 28 I Official Journal of 27 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 18 Official Journal of 16 December 2005)

The Caisse des dépôts et consignations may issue the debt instruments referred to in 2 of I of Article L. 211-1.

NB: Act 2005-842 2005-07-26 Art. 28 I: A clerical error crept into the wording of Article 28 of Act No. 2005-842: Read Code Monétaire and Financier instead of Commercial Code.

Subsection 1
Supervisory Committee — Articles L518-4 to L518-10

Article L518-4
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The supervisory committee is composed of:

1. Three members of the National Assembly, elected by that assembly;
2. A member of the Senate, elected by that assembly;
3. Two members of the Council of State having the rank of Councillor of State, at least, appointed by that council;
4. Two members of the Court of Auditors having the rank of Chief Advisor, at least, appointed by that institution;
5. The Governor or one of the Deputy Governors of the Bank of France, appointed by that bank;
6. The chairman or one of the members of the Chamber of commerce of Paris, chosen by that chamber;
7. The Treasury Director of the Ministry for the Economy.

The chairman of the Supervisory Board of the Caisse nationale des caisses d'épargne et de prévoyance attends the meetings of the supervisory committee of the Caisse des dépôts et consignations with the right of discussion and vote. He must be invited to all meetings at which questions of interest to the savings banks are discussed.

Article L518-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The supervisory committee elects its chairman from among its members.

In the event of there being a hung vote, the chairman has a casting vote.

Article L518-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members are appointed for three years. Retiring members may be re-elected. They are not remunerated.

Article L518-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The supervisory committee is responsible for supervising the Caisse des dépôts et consignations. It oversees the administration of the reserve and guarantee fund of the Caisses d'épargne et de prévoyance; it decides the sums to be deducted in the instances of loss referred to in a Conseil d'Etat decree. These activities are reported in a special chapter of the annual report presented to Parliament by the supervisory committee pursuant to Article L. 518-10.

Article L518-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Every three months, a report is addressed to the supervising auditors concerning the situation of the Caisse des dépôts et consignations. That report is published.

They verify, whenever they consider it appropriate, and at least once each month, the status of the funds, the proper maintenance of the accounts, and all the administrative details.

Article L518-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The committee may send observations to the general manager, which he is not obliged to act upon.The general manager gives the supervisory committee all the documents and information it requires to carry out its supervision.

Article L518-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The supervisory committee's report on the institution's corporate management and material situation during the previous year is sent to Parliament before 2 July.

The said report includes the minutes of the committee's meetings for the relevant year, to which the opinions, motions or resolutions which it has voted on are appended, as well as the interim statement of source and application of funds for the general section and the savings sections, which is presented to the Commission during the first quarter.

Paragraph 1
Composition — Articles L518-4 to L518-6

Article L518-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The supervisory committee is composed of:

1. Three members of the National Assembly, elected by that assembly;
2. A member of the Senate, elected by that assembly;
3. Two members of the Council of State having the rank of Councillor of State, at least, appointed by that council;
4. Two members of the Court of Auditors having the rank of Chief Advisor, at least, appointed by that institution;
5. The Governor or one of the Deputy Governors of the Bank of France, appointed by that bank;
6. The chairman or one of the members of the Chamber of commerce of Paris, chosen by that chamber;
7. The Treasury Director of the Ministry for the Economy.

The chairman of the Supervisory Board of the Caisse nationale des caisses d'épargne et de prévoyance attends the meetings of the supervisory committee of the Caisse des dépôts et consignations with the right of discussion and vote. He must be invited to all meetings at which questions of interest to the savings banks are discussed.

Article L518-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The supervisory committee elects its chairman from among its members.

In the event of there being a hung vote, the chairman has a casting vote.

Article L518-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The members are appointed for three years. Retiring members may be re-elected. They are not remunerated.

Paragraph 2
Missions — Articles L518-7 to L518-9

Article L518-7

(Act No. 2005-842 of 26 July 2005 Art. 28 II Official Journal of 27 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 18 Official Journal of 16 December 2005)

The supervisory committee is responsible for supervising the Caisse des dépôts et consignations. It oversees, inter alia, the management of its reserve and guarantee fund; it decides the sums to be deducted in the instances of loss referred to in a Conseil d'Etat decree. These activities are reported in a special chapter of the annual report presented to Parliament by the supervisory committee pursuant to Article L. 518-10.

Each year, the supervisory committee examines the Caisse des dépôts et consignations' issuing programme for debt instruments and determines the annual limit for such instruments.

NB: Act 2005-842 2005-07-26 Art. 28 II: Code. A clerical error crept into the wording of Article 28 of Act No. 2005-842: Read Code Monétaire and Financier instead of Commercial Code.

Article L518-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Every three months, a report is addressed to the supervising auditors concerning the situation of the Caisse des dépôts et consignations. That report is published.

They verify, whenever they consider it appropriate, and at least once each month, the status of the funds, the proper maintenance of the accounts, and all the administrative details.

Article L518-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The committee may send observations to the general manager, which he is not obliged to act upon.The general manager gives the supervisory committee all the documents and information it requires to carry out its supervision.

Paragraph 3

Article L518-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The supervisory committee's report on the institution's corporate management and material situation during the previous year is sent to Parliament before 2 July.

The said report includes the minutes of the committee's meetings for the relevant year, to which the opinions, motions or resolutions which it has voted on are appended, as well as the interim statement of source and application of funds for the general section and the savings sections, which is presented to the Commission during the first quarter.

Article L518-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisse des dépôts et consignations is managed and administered by a general manager appointed for five years.

The general manager takes an oath before the supervisory committee.

He may be dismissed from his post after the opinion of the supervisory committee has been sought, or on a proposal from that committee, which it might decide to make public.

Article L518-12

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The general manager is responsible for the management of the caisse's funds and securities.

He presents the budget for the following year to the supervisory committee before the year-end. That draft budget, accompanied by the committee's opinion, is submitted to the Minister for the Economy for approval.

Article L518-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Cashier General is responsible for administration of the funds. He oversees collection thereof, payment of expenses, and safekeeping and custody of securities. He provides a guarantee, the amount of which is determined by the regulations, based on a proposal from the committee.

He takes an oath before the Court of Auditors after providing evidence to the Treasury concerning his guarantee.

He is responsible for any errors and deficits other than those attributable to force majeure.

Article L518-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisse has employees to provide the service entrusted to it in every town which has a tribunal de grande instance.

The general manager may call upon local Treasury officials to deal with collections and payments pertaining to the Caisse des dépôts et consignations in the Departments.

The compensation granted in consideration of that service is mutually agreed between the Minister for the Economy and the supervisory committee.

Article L518-16

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Caisse des dépôts et consignations pays to the State each year, on the net profit from its own-account activities, and after payment of a contribution representing corporation tax, a fraction of the said net profit, determined after taking the opinion of the institution's supervisory committee requested by the general manager, and pursuant to the laws and regulations which determine the institution's status.

Article L518-15
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Supervision of the Caisse des dépôts et consignations by the Court of Auditors is carried out within the scope of Article L. 131-3 of the Code of financial jurisdictions.

Article L518-17
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The Caisse des dépôts et consignations is responsible for receiving deposits of all kinds, in cash or in transferable securities, as provided for in a legislative or regulatory provision or ordered by a court decision or an administrative decision.

Article L518-18
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The terms applicable to deposits, custody and withdrawal of securities are determined in a Conseil d'Etat decree.

Article L518-19
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Jurisdictions and administrations cannot authorise or order that deposits be made with natural persons, or with organisations other than the Caisse des dépôts et consignations, and authorise debtors, custodians, or involved third parties to act as a depository or in any other capacity. Deposits made in breach of these provisions are null and void.

Article L518-20
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The general manager of the Caisse des dépôts et consignations may impose, either directly or via the local offices of the Caisse, coercive measures against any person who, when required to pay sums in to the main Caisse or the local Caisse, fails to meet his obligations. Such coercive measures are executed in the same manner as those imposed in regard to registration, and implementation thereof is made known to the public prosecutors.

Article L518-21
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
All fees and risks relating to the safekeeping, custody and movement of the funds and transferable securities deposited are borne by the Caisse des dépôts et consignations. Transferable securities deposited do not give rise to any safe-custody charge.

Article L518-22
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Sums received in respect of arrears, interest, dividends, proceeds of redemption or trading, and any other income from transferable securities deposited, shall not give entitlement to any liquidation or interest payment borne by the Caisse des dépôts et consignations, regardless of the date of encashment.

Article L518-23
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
The rate and calculation method applied to the interest on deposit accounts opened with the Caisse des dépôts et consignations and to the sums deposited with the said Caisse are determined by a decision of the general manager taken on the advice of the supervisory committee and with the approval of the Minister for the Economy.

Article L518-24
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Sums deposited with the Caisse des dépôts et consignations, for whatever reason, are acquired by the State when a period of thirty years has elapsed without any payment or reimbursement taking place in the account in which those sums are deposited, or without any application for payment being made to the Caisse as provided for in Article 15 of the order of 3 July 1816, nor an action referred to in Article 2244 of the Civil Code.
Six months, at the latest, before expiry of that period, the Caisse des dépôts et consignations shall inform the known parties concerned by registered letter of the forfeiture they shall incur. That notice is sent to the domicile indicated in the deeds and documents in the possession of the Caisse, or, if there is no known domicile, to the Public Prosecutor of the

place where the deposit was made.

Furthermore, the date and place of depositing, and the surnames, forenames and addresses of the parties concerned who have not made an application for payment within two months of such notice being given are immediately published in the Official Journal.

The forfeited sums are paid to the Trésor public annually, together with the interest applicable thereto.

Under no circumstances shall the Caisse des dépôts et consignations be required to pay more than thirty years' interest, unless a statement of claim recognised as valid was brought against the Caisse before thirty years had elapsed.

The above provisions are applicable to transferable securities deposited with the Caisse des dépôts et consignations for whatever reason.

SECTION III
The Post Office — Article L518-25

Article L518-25
(Act No. 2005-516 of 20 May 2005 Art. 16 I Official Journal of 21 May 2005)

In the banking, financial and insurance sectors, the Post Office makes products and services generally available, inter alia the Livret A account.

To this end, and without prejudice, where applicable, to the activities it engages in directly pursuant to the laws which govern it, the Post Office may, as provided for in the applicable legislation, create any subsidiary having the status of credit institution, investment firm or insurance company and directly or indirectly hold any equity interest in such institutions or companies. It may enter into any agreement with such institutions or companies with a view to offering any service conducive to the achievement of their purpose in their name and on their behalf, and in compliance with the competition rules, including any service relating to the transactions referred to in Articles L. 311-1, L. 311-2, L. 321-1 and L. 321-2 and any insurance products.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

SECTION IV
The National Savings Bank — Articles L518-26 to L518-28

Article L518-26
(Act No. 2005-516 of 20 May 2005 Art. 16 I Official Journal of 21 May 2005)

The Caisse nationale d'épargne is a public savings bank instituted under the guarantee of the State to receive Livret A account deposits as provided for in Articles L. 221-1 et seq, without prejudice to the provisions specific to the ordinary savings banks; it is placed under the authority of the Minister for the Economy.

The Caisse nationale d'épargne may receive gifts and bequests in the forms, and pursuant to the rules, applicable to public benefit institutions.

The Caisse nationale d'épargne is managed, on behalf of the State, by a credit institution in which the Post Office is the major shareholder, as provided for in an agreement entered into by the State, the Post Office and that institution.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II.

Article L518-27
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The National Savings Bank's supervision procedures are determined in a Conseil d'Etat decree.

Article L518-28
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The National Savings Bank has a reserve and guarantee fund whose organisational and operational rules are determined in a Conseil d'Etat decree.

CHAPTER IX
Banking-Transaction Intermediaries — Articles L519-1 to L519-5

Article L519-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Whoever effects introductions between parties interested in entering into a banking transaction, in the normal course of his business and without being a del credere agent, is a banking-transaction intermediary.

Article L519-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A banking-transaction intermediary's business may be conducted only between two persons, at least one of whom must be a credit institution. The banking-transaction intermediary acts by virtue of a power of attorney granted by that institution. The said power of attorney indicates the types of transactions that the intermediary is empowered to carry out, and the conditions applicable thereto.

Article L519-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of the present Chapter do not apply to notaries, who remain subject to the laws and regulations specific to them.

Nor do they apply to consultancy and assistance relating to financial matters.

Article L519-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any banking-transaction intermediary who, even if only occasionally, is entrusted with funds as the representative of the parties, is required to be able to show at all times that he has a financial guarantee specially allocated to reimbursement of those funds.

The said guarantee must be in the form of an undertaking given by a credit institution authorised for that purpose, or by an insurance company or guarantee company governed by the Insurance Code.

Article L519-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 54 I 1, Official Journal of 2 August 2003)

When banking-transaction intermediaries engage in a canvassing activity within the meaning of Article L. 341-1, they are subject to the provisions of Articles L. 341-4 to L. 341-17 and L. 353-1 to L. 353-5.

Part II
Money-Changers

Articles L520-1 to L520-4

Article L520-1

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 2, Art. 71 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 69 Official Journal of 7 May 2005)

Natural persons or legal entities other than credit institutions and the institutions and departments referred to in Article L. 518-1 whose normal business concerns manual foreign exchange transactions shall send an activity declaration to the Bank of France before they commence trading. They are entered in the Trade and Companies Register, regardless of their legal status.

An immediate exchange of banknotes or currencies denominated in different currencies constitutes a manual foreign exchange transaction within the meaning of the present Part. Moreover, money changers may accept settlement via another means of payment in exchange for the cash they provide to their customers, subject to it being denominated in a different currency. Notwithstanding the prohibition imposed by Article L. 511-5, they may also provide euros in cash in return for travellers cheques denominated in euros.

Practising the money changer's profession, or holding a de facto or de jure management post in a legal entity engaged in that profession, is prohibited for any person who has not made an activity declaration to the Bank of France or who has been the subject of the penalty stipulated in 3 of Article L. 520-3.

Money changers are required to be able to show at all times that they have either paid-up capital, or a guarantee from a credit institution or an insurance company, of an amount at least equal to a sum determined in an order from the Minister for the Economy.

Money changers keep a register of their transactions.

Article L520-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 11, Official Journal of 2 August 2003)

For application of the present Part:

The Minister for the Economy may, through an order, make money-changers subject to special rules.

The Banking Commission exercises disciplinary powers over money-changers as determined in Article L. 520-3.

The General Secretariat of the Banking Commission exercises supervision, including on-the-spot inspections, over the money-changers as determined in Articles L. 613-6 to L. 613-8, L. 613-10 and L. 613-11. The agents responsible for carrying out on-the-spot inspections may inspect the till.

Customs officers having at least the rank of controller may also carry out on-the-spot inspections of the money-changers on behalf of the Banking Commission, as determined in Article L. 520-4.

Notwithstanding any legislative provision to the contrary, the Banking Commission and the customs administration may exchange the information necessary for application of the provisions of the present Part and of Part VI of the present Book.

Article L520-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 71 2, 3, 4, Official Journal of 2 August 2003)

If a money-changer has breached a provision of the present Part or of Part VI of the present Book or its implementing legislation, the Banking Commission may impose one of the following disciplinary sanctions:

1. A warning;

2. A reprimand;

3. Debarment from the profession of money-changer. The Banking Commission may, moreover, bar any de facto and de jure executives of the legal entities referred to in Article L. 520-1 from directly or indirectly practising the profession of money-changer defined in that same article.

Moreover, the Banking Commission may impose, either in place of, or in addition to, those penalties, a financial penalty equal to one million euros at most. When the money-changer is a legal entity, the Banking Commission may decide that its de facto and de jure executives shall be held jointly and severally liable for payment of the financial penalty imposed.

The corresponding sums are recovered by the Trésor public and paid to the State budget.

Article L520-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - Customs officers having at least the rank of controller are authorised to detect and establish breaches to the rules applicable to money-changers referred to in the present Part and in Part VI of the present Book or their implementing legislation.

II. - To that end, the customs officers referred to in I above have access to the professional premises of the money-changers during their normal business hours, excluding any parts of those premises used as private living accommodation.

They may request sight of the registers and the professional documents that the money-changers are required to draw up pursuant to Articles L. 520-1 to L. 520-3, and L. 563-2 to L. 563-4.

They may arrange to have copies of the aforementioned documents delivered to them.

They may inspect the till.

They may collect information and elements of proof on the spot or set up a hearing for that purpose. The hearings which application of the foregoing provisions may give rise to are the subject of written reports.

III. - When the provisions of II above are applied with a view to detecting and establishing the criminal offences indicated in Article L. 572-1, the Public Prosecutor is informed of the planned operations in advance and may oppose them.

IV. - Upon completion of the inspection, the customs officers draw up a report.

A list of the documents of which a copy has been provided is appended thereto.

The report is signed by the customs officers who carried out the inspection and by the money-changer, if he is a natural person, or its representative, if it is a legal entity, who has a period of thirty days in which to make any observations thereon. They shall be appended to the file containing the report. In the event of a refusal to sign, this shall be noted in the report. A copy of the report is handed to the party concerned.

V. - The report(s), the minutes of the hearing and the observations of the money-changer, if any, are sent to the Banking Commission for information as soon as possible.

Article L531-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The investment service providers are the investment firms and credit institutions which have been authorised to provide investment services within the meaning of Article L. 321-1.

The provision of related services within the meaning of Article L. 321-2 is free, consistent with the laws and regulations in force applicable to each of those services. It does not, of itself, suffice to confer investment firm status.

Article L531-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 54 I 2, Article 91 4, Official Journal of 2 August 2003)

The following may provide investment services as provided for in the legislative provisions, if any, which govern them, without being subject to the authorisation procedure referred to in Article L. 532-1, but without being entitled to claim the benefit of the provisions of Articles L. 422-1, L. 532-16 to L. 532-27 and the second and third paragraphs of

Article L. 612-2:

1 a) The Trésor public;

b) The Bank of France;

c) The Issuing Institution of the Overseas Departments and the Overseas Issuing Institution;

d) The Post Office;

2 a) Insurance and reinsurance companies governed by the Insurance Code;

b) Undertakings for collective investment in transferable securities, securitisation funds and real-property investment partnerships, as well as the companies responsible for their management;

c) Companies which only provide investment services to the legal entities which control them directly or indirectly within the meaning of Article L. 233-3 of the Commercial Code and to the legal entities that the latter control within the meaning of that same article;

d) Companies whose investment services activities are limited to the management of a save-as-you-earn scheme;

e) Companies whose activities are limited to those referred to in c and d above;

f) Persons who provide an investment service as an adjunct to another professional activity, insofar as it is governed by rules which do not formally prohibit it;

g) Persons whose business is governed by Chapter I of Part IV of Book III, provided that they are commissioned, pursuant to Article L. 341-4, by persons authorised to provide the same investment services;

h) Purveyors of goods who provide an investment service only to their customers, insofar as it is essential to their principal activity;

i) Companies which have as their principal activity the production, conversion, distribution or sale of goods, trading in the instruments referred to in 4/II of Article L. 211-1 for the normal requirements of their business, insofar as they are governed by rules which do not formally prohibit it.

Article L531-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment service providers whose sole activity:

1. Is the provision of the investment services referred to in 1 of Article L. 321-1;

2. Relates to the financial instruments referred to in 4/II of Article L. 211-1;

cannot avail themselves of the provisions of Articles L. 422-1, L. 532-16 to L. 532-27 and L. 612-2.

SECTION II

Investment Firms — Articles L531-4 to L531-9

Article L531-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 8 I, Official Journal of 16 May 2001)

Investment firms are legal entities, other than credit institutions, which provide investment services in the normal course of their business.

Article L531-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

Investment firms may, under conditions laid down by the Minister for the Economy, acquire and hold equity interests in companies which already exist or are in the process of being formed.

Article L531-6

(Act No. 2003-706 of 1 August 2003 Art. 46 VI 1, Art. 73 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 70 Official Journal of 7 May 2005)

Any change to the capital structure of an investment firm must be carried out as determined in the rules of the Minister for the Economy. It must be notified to the Credit Institutions and Investment Firms Committee and the Financial Markets Authority. In certain cases, it must be approved by the Credit Institutions and Investment Firms Committee.

In the event of a breach of the rules laid down in the first paragraph, and without prejudice to the provisions of Article L. 233-14 of the Commercial Code, the Public Prosecutor, the Credit Institutions and Investment Firms Committee, the Banking Commission or any shareholder or partnership-share holder may ask the judge to suspend exercise of the voting rights attached to the shares and partnership shares of an investment firm, other than a portfolio management company, which are irregularly held, either directly or indirectly, until the situation is regularised.

NB: Order 2005-429 2005-05-06 Art. 70: "In the first paragraph of Article L. 531-6, the words "the order" are replaced by the words "an order". Word not found.

Article L531-7

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 8 II, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

The Minister for the Economy determines the circumstances in which investment firms may engage professionally in an activity other than those indicated in Article L. 321-1.

Article L531-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Each investment firm, each market undertaking and each clearing house belongs to an association of its choice which is responsible for the collective representation and the defence of the rights and interests of its members. Any association thus constituted is affiliated to the association referred to in Article L. 511-29.

Article L531-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

For the application of Articles L. 531-5, L. 531-6 and L. 531-7 to portfolio management companies, the powers of the authorities referred to in those articles are exercised by the Stock Exchange Commission.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L531-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Without prejudice to the provisions of Article L. 421-8, any person other than an investment service provider is prohibited from providing investment services to third parties in the normal course of business.

Article L531-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any company other than an investment firm is prohibited from using a trade name, company name, advertising or, more generally, any wording, which might imply that it is an authorised investment firm or create confusion in that regard.

An investment firm is prohibited from giving the impression that it belongs to a category other than that for which it received authorisation, and from creating confusion in that regard.

Article L532-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 40 I, Article 46 V 1, Official Journal of 2 August 2003)

In order to provide investment services, the investment firms and credit institutions must obtain authorisation. Without prejudice to the provisions of the third paragraph below, authorisation is given by the Credit institutions and Investment Companies Committee. It is not required to merely provide one or more of the services referred to in Article L. 321-2.

Prior to the issuance of authorisation for the service referred to in 4 of Article L. 321-1, the investment firms and credit institutions must obtain approval for their activities schedule from the Financial Markets Authority.

When that service is intended to constitute its principal activity, the investment firm's authorisation is issued by the Financial Markets Authority.

A Conseil d'Etat decree determines the present article's implementing regulations. It specifies, inter alia, the manner in which the decisions are taken and notified and the specific provisions applicable to investment firms which are direct or indirect subsidiaries of investment firms or credit institutions which have either been authorised in another European Community Member State or which do not come under the law of one of those States.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L532-2

(Act No. 2001-420 of 15 May 2001 Art. 7 II 1 Official Journal of 16 May 2001)

(Act No. 2003-706 of 1 August 2003 Art. 40 II, Art. 46 VI 1 Official Journal of 2 August 2003)
(Order No. 2004-482 of 3 June 2004 Art. 3 I Official Journal of 5 June 2004)

Prior to granting approval to an investment firm, the Credit Institutions and Investment Firms Committee verifies that:

1. Its registered office and its principal administrative establishment are in France;

2. It has, in view of the nature of the service it wishes to provide, sufficient initial capital as determined by the Minister for the Economy as well as suitable and sufficient financial resources;

3. It has indicated the identities of its direct or indirect shareholders, natural persons or legal entities, who have a qualified equity holding, as well as the amount of their holdings; the Committee assesses the status of those shareholders in regard to the necessity of guaranteeing sound and prudent management of the investment firm.

4. Its policy is determined by at least two persons possessing the necessary respectability and competence and adequate experience for that function;

5. It has a legal form suitable for the business of an investment firm;

6. It has an activities schedule for each of the services it intends to offer which specifies the manner in which it envisages providing the investment services concerned and indicates the type of transactions envisaged and its organisational structure. For the service referred to in 4 of Article L. 321-1, the activities schedule must have been approved by the Financial Markets Authority as determined in Article L. 532-4.

The Committee may attach to the approval granted special conditions intended to maintain the balance of the company's financial structure. It may also make the awarding of approval subject to compliance with undertakings given by the applicant firm.

The committee may refuse to grant approval if performance of the supervisory function in relation to the applicant firm is likely to be impeded either by the existence of links of capital or direct or indirect control between the company and natural persons or legal entities, or by the existence of laws or regulations of a State outside the European Economic Area which one or more of those legal entities or natural persons are governed by.

The investment firm must meet the conditions of its approval at all times.

Article L532-3

(Act No. 2001-420 of 15 May 2001 Art. 7 II 2 Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 40 II, Art. 46 VI 1 Official Journal of 2 August 2003)
(Order No. 2004-482 of 3 June 2004 Art. 3 II Official Journal of 5 June 2004)

In addition to the conditions laid down in Article L. 511-10, prior to granting approval authorising a credit institution to provide one or more investment services, the Credit Institutions and Investment Firms Committee verifies that it has:

1. Sufficient initial capital as determined by the Minister for the Economy, commensurate with the nature of the service it intends to provide;

2. A legal form suitable for the provision of investment services;

3. An activities schedule for each of the services it intends to offer which specifies the manner in which it envisages providing the investment services concerned and indicates the type of transactions envisaged and its organisational structure. For the service referred to in 4 of Article L. 321-1, the activities schedule must have been approved by the Financial Markets Authority as determined in Article L. 532-4.

The Committee may attach to the approval granted special conditions intended to maintain the balance of the company's financial structure. It may also make the awarding of approval subject to compliance with undertakings given by the applicant firm.

The investment firm must meet the conditions of its approval at all times.

Article L532-3-1

(Act No. 2001-420 of 15 May 2001 Article 7 II 3, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 2, Official Journal of 2 August 2003)

Any change to the conditions which the authorisation granted to an investment firm or a credit institution providing one or more investment services was made subject to, shall require either the prior authorisation of the Credit institutions and Investment Companies Committee, or a declaration or notification, as determined by an order of the Minister for the Economy.

In cases in which authorisation is required, it may, itself, be accompanied by special conditions consistent with the purpose indicated in the eighth paragraph of Article L. 532-2 and the fifth paragraph of Article L. 532-3 or conditional upon compliance with undertakings given by the company or the institution.

Article L532-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 10 3, Official Journal of 16 May 2001)
(Act No. 2001-1168 of 11 December 2001 Article 27 12, Official Journal of 12 December 2001)
(Act No. 2003-706 of 1 August 2003 Article 40 III, Official Journal of 2 August 2003)

Prior to granting approval for an activities schedule relating to the investment service referred to in 4 of Article L. 321-1, the Financial Markets Authority assesses the quality of that schedule in regard to the respectability and competence of the executives and the suitability of their experience for their functions, as well as the conditions in which the service provider envisages providing the investment services concerned. That schedule indicates the types of transactions envisaged and the structure of the organisation, company or institution providing the investment service.

Article L532-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - Legal entities authorised to provide an investment service referred to in Article L. 321-1 as of 5 July 1996 are exempted, when providing that service, from the procedures stipulated in Article L. 532-1 and benefit from the provisions of Articles L. 422-1 and L. 532-23 to L. 532-26.

Those legal entities must appear on the lists drawn up by the Credit institutions and Investment Companies Committee and by the Stock Exchange Commission. They are then deemed to have obtained the authorisation referred to in Article L. 532-1 for the services concerned.

II. - Investment service providers who were trading before 4 July 1996 are exempted from the authorisation procedure referred to in Article L. 532-9.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L532-3-2

(inserted by Act No. 2005-842 of 26 July 2005 Art. 13 II Official Journal of 27 July 2005)

Without prejudice to the provisions of Article L. 229-4 of the Commercial Code, the Credit Institutions and Investment Firms Committee may, pursuant to the provisions of Article 8, 14, and Article 19 of (EC) Regulation No. 2157/2001 of the Council dated 8 October 2001 relating to the status of European companies (SE), also oppose the transfer of the registered office of an investment firm formed as a European company registered in France if this would result in a change of applicable law and likewise the formation of a European company through a merger involving an investment firm approved in France. Such decisions are appealable before the Conseil d'Etat.

Subsection 2
Withdrawal of Authorisation and Striking-Off — Articles L532-6 to L532-8

Article L532-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 7 II 6, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 III 12, Article 74 2, Official Journal of 2 August 2003)

Withdrawal of authorisation from an investment firm other than a portfolio management company is ordered by the Credit institutions and Investment Companies Committee at the request of the investment firm. It may also be decided automatically by the Committee if the investment firm no longer complies with the conditions or the undertakings which its authorisation or a subsequent authorisation was contingent upon, or if the investment firm did not make use of its authorisation within twelve months or has not traded for at least six months.

Withdrawal of authorisation takes effect upon expiry of a period determined by the Credit institutions and Investment Companies Committee.

During that period:

1. The investment firm is still subject to the supervision of the Banking Commission and the Financial Markets Council. The Banking Commission and the Financial Markets Authority may impose the disciplinary sanctions indicated in Article L. 613-21, and the penalties indicated in Article L. 621-15, on any investment firm whose authorisation has been withdrawn;

2. It may only carry out the transactions which are strictly necessary to settle its investment services;

3. The firm may refer to its investment-firm status only when stating that its authorisation is in the process of being withdrawn.

Securities issued by that firm which are not transferable on a regulated market are reimbursed by the firm on their due dates or, if the due date falls after expiry of the period referred to above, on the date determined by the Credit institutions and Investment Companies Committee.

Upon expiry of that period, the company loses its investment-firm status and must have changed its corporate name.

Notwithstanding the provisions of 4 and 5 of Article 1844-7 of the Civil Code, the early dissolution of an investment firm cannot be declared until its authorisation has been withdrawn by the Credit institutions and Investment Companies Committee. Notwithstanding Articles L. 123-1 and L. 237-3 of the Commercial Code, the publication and the amending entry in the Trade and Companies Register concerning the pronouncement of such dissolution must indicate the date of the Credit institutions and Investment Companies Committee's decision to withdraw authorisation. Until closure of the liquidation proceedings, the firm shall remain subject to the supervision of the Banking Commission or the Financial Markets Authority, which may impose all sanctions provided for in Articles L. 613-21 and L. 621-15 of the present Code. It shall not refer to its investment-firm status without indicating that it is in liquidation.

Article L532-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The deletion from the list of authorised investment firms of an investment firm other than a portfolio management company may be ordered by the Banking Commission as a disciplinary measure.

Such deletion entails the liquidation of the legal entity if its registered office is in France. In the case of branches of

investment firms having their registered office outside the European Economic Area, such deletion entails the liquidation of the branch's balance-sheet and off-balance-sheet items.

Any firm which has been struck off remains subject to the supervision of the Banking Commission until closure of the liquidation proceedings. It may only carry out the transactions which are strictly necessary to settle its affairs. It may refer to its investment-firm status only when stating that its authorisation is in the process of being withdrawn.

Article L532-8

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 VI 1, Official Journal of 2 August 2003)

The Minister for the Economy determines the implementing legislation for Articles L. 532-6 and L. 532-7. He determines, inter alia, the manner in which:

a) Decisions to withdraw authorisation and to effect deletion are made known to the public;

b) Financial instruments entered in the firm's books may be transferred to another investment service provider or to the issuing legal entity.

Subsection 3
Provisions relating to Portfolio Management Companies — Articles L532-9 to L532-13

Paragraph 1
Authorisation — Articles L532-9 to L532-9-2

Article L532-9

(Act No. 2001-420 of 15 May 2001 Art. 7 II 4 and Art. 10 4 Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 46 III 13, V 1, 2 Official Journal of 2 August 2003)
(Order No. 2004-482 of 3 June 2004 Art. 3 III Official Journal of 5 June 2004)

An investment firm having as its principal activity the provision of the service referred to in 4 of Article L. 321-1 is approved by the Financial Markets Authority and designated a "portfolio management company".

Prior to granting approval to a portfolio management company, the authority checks to ensure that:

1. Its registered office and its principal administrative establishment are in France;

2. It has sufficient initial capital as well as suitable and adequate financial resources;

3. It has indicated the identities of its direct or indirect shareholders, natural persons or legal entities, who have a qualified equity holding, as well as the amount of their holdings; the authority assesses the status of those shareholders in regard to the necessity of guaranteeing sound and prudent management;

4. It is effectively managed by persons possessing the necessary respectability and competence and adequate experience for their function;

5. Its policy is determined by at least two persons who meet the conditions laid down in 4;

6. It has a legal form suitable for provision of the service referred to in 4 of Article L. 321-1;

7. It has an activities schedule for each of the services it intends to offer which specifies the manner in which it envisages providing the investment services concerned and indicates the type of transactions envisaged and its organisational structure

The Financial Markets Authority may refuse to grant approval if performance of the supervisory function in relation to the portfolio management company is likely to be impeded either by the existence of links of capital or direct or indirect control between the company and natural persons or legal entities, or by the existence of laws or regulations of a State outside the European Economic Area which one or more of those legal entities or natural persons are governed by.

The Financial Markets Authority renders its decision within three months of submission of the application. Its decision is grounded and notified to the applicant.

The Committee may attach special conditions to the approval granted intended to maintain the balance of the management company's financial structure. It may also make the awarding of approval subject to compliance with undertakings given by the applicant company.

The General Regulations of the Financial Markets Authority stipulate the approval criteria for portfolio management companies.

An investment firm having as its principal activity the service referred to in 4 of Article L. 321-1 must meet the conditions of its approval at all times.

Article L532-9-1

(Act No. 2001-420 of 15 May 2001 Article 7 II 5, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 V 1, Article 73 2, Official Journal of 2 August 2003)

Any amendment to the conditions which the authorisation granted to a portfolio management company was subject to, shall require, as applicable, the prior authorisation of the Financial Markets Authority, a declaration or a notification, as determined by an order of the Minister for the Economy.

In the event of no prior notice being given concerning a change in the structure of a portfolio management company's shareholder base, and without prejudice to the provisions of Article L. 233-14 of the Commercial Code, the Financial Markets Authority, the Public Prosecutor or any shareholder or holder of membership shares may ask the

judge to suspend the exercise of the voting rights attached to the shares and membership shares of the management company which are irregularly held, either directly or indirectly, until the situation is regularised.

In cases in which authorisation is required, it may, itself, be accompanied by special conditions consistent with the purpose indicated in the penultimate paragraph of Article L. 532-9 or conditional upon compliance with undertakings given by the management company.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L532-9-2

(inserted by Act No. 2005-842 of 26 July 2005 Art. 13 III Official Journal of 27 July 2005)

Without prejudice to the provisions of Article L. 229-4 of the Commercial Code, the Financial Markets Authority is also authorised, pursuant to the provisions of Article 8, 14, and Article 19 of (EC) Regulation No. 2157/2001 of the Council dated 8 October 2001 relating to European company status, to oppose the transfer of the registered office of a portfolio management company created as a European company registered in France which would result in a change in the applicable law, and likewise the creation of a European company through a merger involving a portfolio management company registered in France. Such decisions are appealable before the Conseil d'Etat.

Paragraph 2
Withdrawal of Authorisation and Striking-Off — Articles L532-10 to L532-13

Article L532-10

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 7 II 7, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 III 14, V 1, Official Journal of 2 August 2003)

Withdrawal of authorisation from a portfolio management company is ordered by the Financial Markets Authority at the request of the company. It may also be decided automatically by the Committee if the company no longer complies with the conditions or the undertakings which its authorisation or a subsequent authorisation was contingent upon, or if the investment firm did not make use of its authorisation within twelve months or has not traded for at least six months.

Withdrawal of authorisation takes effect upon expiry of a period determined by the Financial Markets Authority.

During that period:

1. The portfolio management company is subject to the supervision of the Financial Markets Authority. The Financial Markets Authority may impose the disciplinary sanctions indicated in Article L. 621-15 on any company whose authorisation has been withdrawn;

2. It may only carry out the transactions which are strictly necessary to protect the customers' interests.

3. It may refer to its portfolio-management-company status only when stating that its authorisation is in the process of being withdrawn.

Upon expiry of that period, the company loses its portfolio-management-company status and must have changed its corporate name.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L532-11

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 15, V 1, Official Journal of 2 August 2003)

Any portfolio management company having decided upon its early dissolution before that period has expired is still subject to the supervision of the Financial Markets Authority until the closure of its liquidation proceedings, and the latter may impose on it the penalties indicated in Article L. 621-15, including deletion. It may refer to its portfolio-management-company status only when stating that it is in liquidation.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L532-12

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 16, V 1, Official Journal of 2 August 2003)

The deletion of a portfolio management company from the list of authorised portfolio management companies may be ordered by the Financial Markets Authority as a penalty.

The deletion entails the liquidation of the legal entity, if its registered office is in France. In the case of branches of

companies having their registered office outside the European Economic Area, such deletion entails the liquidation of the branch's balance-sheet and off-balance-sheet items.

Any company which has been struck off remains subject to the supervision of the Financial Markets Authority until closure of the liquidation proceedings. It may only carry out the transactions which are strictly necessary to protect the customers' interests. It may refer to its portfolio-management-company status only to state that it has been struck off.

Article L532-13

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 17, V 1, Official Journal of 2 August 2003)

The Financial Markets Authority determines the implementing legislation for Articles L. 532-10 to L. 532-12. It determines, inter alia, the manner in which decisions to withdraw authorisation or strike off are made known to the public.

The portfolio management companies conduct their business as determined in Articles L. 533-10 and L. 533-13.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Subsection 4
Representative Offices — Articles L532-14 to L532-15

Article L532-14

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When investment firms open offices in France to provide information, liaison or representation services, the opening of those offices must be notified in advance to the Credit institutions and Investment Companies Committee, which shall inform the Financial Markets Council thereof.

The said offices may display the name of the institution that they represent.

Article L532-15

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 18, V 1, Official Journal of 2 August 2003)

When such offices are opened by portfolio management companies, the notification referred to in Article L. 532-14 is sent to the Financial Markets Authority, which then informs the Credit institutions and Investment Companies Committee thereof.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

SECTION II
Freedom of Establishment and Freedom to Provide Services within the Territory of the European Economic Area Member States — Articles L532-16 to L532-27

Subsection 1
General Provisions — Articles L532-16 to L532-17

Article L532-16

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the present section and for application of the provisions relating to freedom of establishment and freedom to provide services:

1. The term "competent authorities" denotes the authorities of a European Community Member State authorised pursuant to the legislation of that State to authorise or supervise the investment firms having their registered office there;

2. The term "Country of origin" denotes, for an investment firm, the Member State in which it has its registered office or, if its national law prohibits this, the Member State in which its effective management takes place, and, in the case of a market, the State in which the registered office is located or, failing that, the effective management of the organisation which executes the transactions;

3. The term "Host State" denotes any Member State in which the investment firm conducts its business through a branch or freedom to provide services;

4. The term "branch" denotes one or more elements, without legal personality, of an investment firm, whose purpose is to provide investment services;

5. The term "service provided under freedom to provide services" denotes the means through which an investment firm provides an investment service in a host State other than through a permanent presence in that State.

Article L532-17

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

For application of the present section, investment firms whose registered office or effective management is established in another European Economic Area Member State are treated as investment firms having their registered office or effective management in a Member State of the European Community other than France.

Subsection 2
Freedom to Provide Services and Freedom of Establishment in France — Articles L532-18 to L532-22

Article L532-18

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 19, Article 91 5, Official Journal of 2 August 2003)

Any legal entity or natural person authorised to provide investment services in their country of origin may, consistent with the authorisation received there, and without prejudice to the provisions of Articles L. 511-21 to L. 511-28, provide those same services in the territory of Metropolitan France and the Overseas Departments, establish branches there to provide investment services and related services, and freely act to provide services as determined by the Financial Markets Council, particularly in regard to the protection of customers' funds.

For the application of Articles L. 213-3, L. 322-1 to L. 322-4, L. 421-6, L. 421-7, L. 421-8 to L. 421-11, L. 432-20, L. 431-7, L. 531-10, L. 533-3, L. 533-4, L. 533-6 to L. 533-11, L. 533-13 and L. 621-18-1, the persons referred to in the previous paragraph are treated as investment service providers.

Article L532-19

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 20, V 1, Official Journal of 2 August 2003)

In order to exercise supervision over an investment service provider benefiting from the scheme referred to in Article L. 532-18, the competent authorities in its home State may require that it, and its branches established in France, send them all information relevant to the exercise of that supervision.

Prior notice thereof having been given to the Banking Commission, or, in the case of a service referred to in 4 of Article L. 321-1, to the Financial Markets Authority, the branches of that service provider located in the territory of Metropolitan France and the Overseas Departments may be audited on the spot by the competent authorities of their country of origin, either directly or through persons specially empowered for that purpose by those authorities. The results of those audits shall be communicated to the Banking Commission, and the professional secrecy rules cannot be raised in opposition thereto. When applicable, the Banking Commission shall inform the Financial Markets Authority of the aforementioned audits and the results thereof.

Moreover, the Banking Commission and the Financial Markets Authority shall, if applicable, carry out any verifications requested by the competent authorities in the Home State.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L532-20

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 21, Official Journal of 2 August 2003)

Without prejudice to the supervision exercised by the Banking Commission pursuant to Article L. 613-2, the investment service providers referred to in Article L. 532-18 are subject to the supervision of the Financial Markets Council.

The Council examines the conditions in which their business is conducted and the results obtained, taking due account of the supervision exercised by the competent authorities in the Home State.

Article L532-21

(Act No. 2003-706 of 1 August 2003 Art. 46 III 22, V 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 71 Official Journal of 7 May 2005)

When the Banking Commission or, in the case of a service referred to in 4 of Article L. 321-1, the Financial Markets Authority, notes that an investment service provider benefiting from the scheme referred to in Article L. 532-18 is not complying with the laws or regulations that govern the prudential rules or the rules of approval, those authorities may inform the proper authorities of the home Member State thereof and demand that the service provider remedy the irregular situation.

If, despite the measures taken by the home Member State, or because such measures have proved ineffective or do not exist, the investment service provider continues to contravene the laws or regulations referred to in the previous paragraph, either the Banking Commission or, when it falls within its competence, the Financial Markets Authority, shall take appropriate measures to prevent or penalise any further irregularities and, if need be, to prevent that service provider from executing further transactions in Metropolitan France and the Overseas Departments. The said authorities shall inform the authorities of the home Member State thereof without delay.

Article L532-22

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 23, Official Journal of 2 August 2003)

A Conseil d'Etat decree determines the procedures that the Banking Commission and the Financial Markets Authority follow when exercising the powers devolved upon them by Articles L. 532-19 to L. 532-21. Such decree determines, in particular, the informational procedures used by the competent authorities of the other Member States.

Subsection 3
Freedom to Provide Services and Freedom of Establishment within the territory of the European Economic Area Member States — Articles L532-23 to L532-27

Article L532-23

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any investment service provider having its registered office in the territory of Metropolitan France and the Overseas Departments which is authorised to provide investment services pursuant to Article L. 532-1 and which wishes to establish a branch in another Member State must send its plan to the Credit institutions and Investment Companies Committee and the Financial Markets Council pursuant to the rules laid down in a Conseil d'Etat decree.

That plan, and the information indicated in Article L. 533-13 relating to the protection of the branch's customers, are sent, within three months of their receipt, to the competent authorities of the host State under the terms and conditions determined in the Conseil d'Etat decree referred to in previous paragraph. Refusal to send such information may occur only if the Credit institutions and Investment Companies Committee and the Financial Markets Council establish that the administrative structures or financial situation of the investment firm or the credit institution providing the investment services do not justify the establishment of a branch.

The investment service provider concerned is informed when the plan is sent to the host State.

If the Credit institutions and Investment Companies Committee and the Financial Markets Council refuse to send the information referred to in the first paragraph to the competent authorities of the host State, they shall inform the investment firm or the credit institution concerned of the reasons for that refusal within three months of receiving that information.

Upon receipt of the reply from the competent authorities of the host State or, in the absence of any reply from them within two months of receipt by those authorities of the information sent by the Credit institutions and Investment Companies Committee and the Financial Markets Council, the branch of the applicant company or institution may be established and may commence trading, subject, if applicable, to meeting the specific conditions stipulated for trading on a regulated market.

Article L532-24

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any investment service provider having its registered office in the territory of Metropolitan France and the Overseas Departments which is authorised to provide investment services pursuant to Article L. 532-1 and which wishes to conduct business in the territory of another Member State under freedom to provide services, must declare this to the Credit institutions and Investment Companies Committee and the Financial Markets Council in the manner determined in a Conseil d'Etat decree.

The Credit institutions and Investment Companies Committee and the Financial Markets Council shall send that declaration to the competent authority of the host State within one month of receiving it in due form. The investment service provider may then provide the investment services declared in the host State.

Article L532-25

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Articles L. 532-23, L. 532-24 and L. 532-26 apply automatically to the provision of the investment services referred to in Article L. 321-1. They may also apply to the related services referred to in Article L. 321-2 if the applicant investment service provider is authorised to provide some or all of the services enumerated in Article L. 321-1.

Article L532-26

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Stock Exchange Commission exercises the functions indicated in Articles L. 532-18, L. 532-23 to L. 532-27 and L. 612-2 in regard to the portfolio management companies and companies that come under Article L. 532-18 which have as their principal activity the provision of the service referred to in 4 of Article L. 321-1.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L532-27

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A Conseil d'Etat decree determines the circumstances in which the information referred to in Articles L. 532-23 to L. 532-26 is communicated to the competent authorities of the Member State concerned.

CHAPTER III

Article L533-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 24, VI 1, Official Journal of 2 August 2003)

Investment service providers are required, in regard to their investment services activities, to comply with the management rules intended to guarantee their liquidity, their solvency and the balance of their financial structure laid down by the Minister for the Economy pursuant to Article L. 611-3.

They must, in particular, respect the hedge ratios and risk-division ratios.

Non-compliance with the above obligations entails application of the procedure provided for in Articles L. 613-21 and L. 621-15.

Article L533-1-1

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 8 Official Journal of 16 November 2004)

Investment service providers notify the Banking Commission of any major intra-group transactions, as provided for in Article L. 613-8.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L533-1-2

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 8 Official Journal of 16 November 2004)

When an investment service provider other than a portfolio management company has a parent company which is a credit institution, an investment firm or a financial holding company having its registered office in a State outside the European Economic Area, the Banking Commission verifies, on its own initiative or at the request of the parent company or a regulated entity approved in an EU Member State or another European Economic Area Member State, that the said investment service provider is subject to consolidated supervision by a proper authority in the third country which is equivalent to that applicable in France.

If no equivalent consolidated supervision exists, the investment service provider is subject to the provisions relating to consolidated supervision applicable in France.

The Banking Commission may also use other methods to guarantee equivalent consolidated supervision subject to approval from the proper authority responsible for consolidated supervision in the European Economic Area and after consulting the relevant authorities of an EU Member State or another European Economic Area Member State. It may, inter alia, require the formation of a financial holding company having its registered office in an EU Member State or another European Economic Area Member State.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L533-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment firms are bound by the obligations of Articles L. 511-33, L. 511-36, L. 511-37 and L. 511-39.

Article L533-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment service providers, market undertakings and clearing houses must provide the Bank of France with the information it needs to compile the monetary statistics.

Article L533-3-1

(inserted by Order No. 2003-706 of 1 August 2003 Article 72 2, Official Journal of 2 August 2003)

Companies established in France which belong to a group that includes one or more portfolio management companies having their registered office in a European Community Member State or another European Economic Area Member State or a State in which the agreements referred to in Article L. 621-21 are applicable, are required, notwithstanding any provision to the contrary, to send the companies in the same group the information which is necessary to organise the prevention of money laundering and the financing of terrorism. The provisions of the fourth paragraph of Article L. 511-34 are applicable to that information.

Article L533-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-602 of 9 July 2001 Article 9 V 5, Official Journal of 11 July 2001)
(Act No. 2003-706 of 1 August 2003 Article 46 III 25, Article 66, Official Journal of 2 August 2003)

The investment service providers and the persons referred to in Article L. 421-8, and also the persons referred to in Article L. 214-83-1, are required to comply with the rules of good conduct intended to ensure investor protection and the lawfulness of transactions.

The said rules are established by the Financial Markets Authority.

They cover the related services which those service providers might provide.

They oblige the investment service providers to:

1. Act honestly and fairly in the best interests of their customers and the integrity of the market;

2. Conduct their business with the requisite skill, care and diligence, in the best interests of their customers and the integrity of the market;

3. Have the resources and procedures required to run their business, and apply those resources and procedures with due regard for efficiency;

4. Inquire into their customers' financial situation and investment experience, and their objectives in relation to the services requested;

5. Communicate the relevant information in an appropriate fashion in the context of their dealings with their customers;

6. Endeavour to avoid conflicts of interest and, if such conflicts cannot be avoided, ensure that their customers are treated equitably;

7. Comply with all the regulations applicable to the conduct of their business in order to promote the best interests of their customers and the integrity of the market.

8. For portfolio management companies: Exercise the rights attached to the securities held by the undertakings for collective investment in transferable securities which they manage, in the exclusive interest of the shareholders or unitholders of those undertakings for collective investment in transferable securities, and report on their practises in regard to exercise of the voting rights as determined in the General Regulations of the Financial Markets Authority. In particular, if they do not exercise those voting rights, they shall explain their reasons to the unitholders or shareholders of the undertakings for collective investment in transferable securities.

The rules laid down in the present article must be applied in a manner which takes account of the professional expertise in terms of investment services of the person to whom the investment service is rendered.

Article L533-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment service providers authorised to provide investment services referred to in 1 and 2 of Article L. 321-1 are responsible towards their principals for the delivery and payment of what they sell or buy.

Without prejudice to the provisions of Article L. 442-4, the General Regulations of the Financial Markets Council define the conditions in which derogations from the previous paragraph may be granted.

Article L533-6

(Order No. 2004-482 of 3 June 2004 Art. 4 Official Journal of 5 June 2004)

The internal regulations of all investment service providers and other persons referred to in Article L. 421-8 shall indicate:

1. The conditions under which employees may trade in financial instruments for their own account;

2. The procedure employees shall use to inform their employer of such trading;

3. The steps they must take to avoid improper dissemination of confidential information.

The provisions of the internal regulations which contain these conditions and obligations shall be included in the activities schedule submitted to the Financial Markets Authority pursuant to Article L. 532-1 prior to the issuing of approval for the service referred to in 4 of Article L. 321-1 or to the Credit Institutions and Investment Firms Committee pursuant to Articles L. 532-2 and L. 532-3.

Article L533-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment service providers and, when applicable, the persons referred to in Article L. 421-8, shall protect the investors' title to the financial instruments whose accounts they administer. They shall not use those financial instruments for their own account without the investor's explicit consent.

Article L533-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment firms shall not under any circumstances use the funds deposited with them by their customers for their own account, without prejudice to the provisions of Articles L. 442-6 to L. 442-9.

Article L533-9

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment service providers and members of a regulated market register their orders as determined in the General Regulations of the Financial Markets Council.

Article L533-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment service providers may only provide the service described in 4 of Article L. 321-1 by virtue of a written agreement.

Article L533-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The shareholders, members or owners of an investment service company or institution authorised to manage financial instruments on behalf of third parties must refrain from any initiative having as its purpose or its effect the favouring of their own interests to the detriment of the interests of the investors who are the company's customers.

The executives of the companies and institutions referred to in the previous paragraph must, in carrying out their management activity on behalf of third parties, retain their autonomy of decision-making in order to promote the interests of their customers at all times.

Article L533-12

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Portfolio management companies are prohibited from receiving funds, securities or gold from their customers and from executing transactions between a customer's account and their own account or direct transactions between the accounts of their customers.

SECTION IV
Investors' Guarantee — Article L533-13

Article L533-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Investment service providers and the persons referred to in Article L. 421-8 are required to inform the investors, before entering into a business relationship with them, of the existence of a guarantee scheme applicable to the transaction(s) envisaged, the amount and scope of the cover offered and, if applicable, the identity of the guarantee fund.

The investors' guarantee scheme is described in Articles L. 322-1 to L. 322-4.

Part IV
Other Service Providers — **Articles L541-1 to L544-4**

CHAPTER I
Financial Investment Advisors — Articles L541-1 to L541-7

Article L541-1

(inserted by Order No. 2003-706 of 1 August 2003 Article 55, Official Journal of 2 August 2003)

I. - Financial investment advisors are persons who, in the normal course of their business, engage in consultancy activities relating to:

1 The execution of transactions relating to the financial instruments defined in Article L. 211-1;

2 The carrying out of banking transactions or related transactions as specified in Articles L. 311-1 and L. 311-2;

3 The provision of the investment services or related services described in Articles L. 321-1 and L. 321-2;

4 The execution of the transactions relating to miscellaneous property described in Article L. 550-1.

II. - The following are not subject to the provisions of the present Chapter:

1 Credit institutions and the other institutions referred to in Article L. 518-1, investment firms and insurance companies;

2 Professionals subject to specific regulations who are engaged in consultancy activities relating to financial investments, within the limits of those regulations.

III. - Financial investment advisors may give legal advice or draft private deeds for others regularly and in return for remuneration only under the conditions and within the limits set in articles 54, 55 and 60 of Act No. 71-1130 of 31 December 1971 reforming certain judicial and legal professions.

Article L541-2

(inserted by Order No. 2003-706 of 1 August 2003 Article 55, Official Journal of 2 August 2003)

Natural persons who are financial investment advisors, and natural persons empowered to manage or administer legal entities authorised to act as financial investment advisors, must meet the conditions of age and respectability determined by decree, as well as the conditions of professional competence laid down in the General Regulations of the Financial Markets Authority.

Article L541-3

(inserted by Order No. 2003-706 of 1 August 2003 Article 55, Official Journal of 2 August 2003)

Any financial investment advisor must be able to prove, at any time, the existence of an insurance policy covering him against the financial consequences of his professional civil liability in the event of a breach of his professional obligations as described in the present Chapter.

The minimal level of the cover which must be provided by the professional civil liability insurance is determined by

decree, consistent with the legal form under which the consultancy business is conducted and the products and services likely to be proposed.

Article L541-4
(inserted by Order No. 2003-706 of 1 August 2003 Article 55, Official Journal of 2 August 2003)

Any financial investment advisor must belong to an association responsible for the collective representation and the defence of the rights and interests of its members. Those associations are approved by the Financial Markets Authority on account, inter alia, of their representativeness and their ability to carry out their missions. The conditions of competence and the code of good conduct which their members are subject to must have been approved by the Financial Markets Authority. The said code must respect a minimum number of prescriptions laid down in the General Regulations of the Financial Markets Authority which require the financial investment advisors to:

1 Act honestly and fairly in the best interests of their customers;

2 Conduct their business, in the limits authorised by their articles of association, with the requisite skill, care and diligence in the best interests of their customers, in order to offer them a range of suitable services consistent with their needs and objectives;

3 Have the resources and procedures required to run their business, and apply those resources and procedures with due regard for efficiency;

4 Inquire into their customers' financial situation, and their experience and objectives in regard to investment, before providing them with advice;

5 Convey to the customers, in an appropriate manner, the legal nature and scope of any relations maintained with the institutions offering products referred to in 1 of Article L. 341-3, and the information that those customers need in order to make a decision, as well as information concerning the terms of their own remuneration, including the pricing of their services.

Article L541-5
(inserted by Order No. 2003-706 of 1 August 2003 Article 55, Official Journal of 2 August 2003)

Any financial investment advisor who wishes to conduct his business in France must, after verifying that he meets the conditions laid down in Articles L. 541-2 to L. 541-4, be included in a list maintained and regularly updated by each professional association referred to in Article L. 541-4 as determined in a decree issued after consulting the National Commission for Information Technology and Freedom. The said list is sent to the Financial Markets Authority, pursuant to the terms laid down in its General Regulations, where it may be freely consulted by the public.

The financial investment advisor is issued with a registration number by the professional association with which he is registered. That number must be communicated to any person having dealings with him and must appear on all documents issued by a financial investment advisor.

Article L541-6
(inserted by Order No. 2003-706 of 1 August 2003 Article 55, Official Journal of 2 August 2003)

Financial investment advisors are prohibited from receiving funds from their customers other than those intended to remunerate them for their financial-investment consultancy activities.

Article L541-7
(Act No. 2003-706 of 1 August 2003 Art. 55 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 8 I Official Journal of 7 May 2005)

Financial investment advisors are subject to the incapacities referred to in Article L. 500-1.

CHAPTER II

Intermediaries Authorised to Act as Administrators or Custodians of Financial Instruments Article L542-1

Article L542-1
(Act No. 2003-706 of 1 August 2003 Art. 41 II, III Official Journal of 2 August 2003)
(Order No. 2004-482 of 3 June 2004 Art. 5 Official Journal of 5 June 2004)
(Order No. 2005-429 of 6 May 2005 Art. 72 Official Journal of 7 May 2005)

Only the following may act as custodians or administrators of financial instruments:

1 Legal entities for the financial instruments they issue through public offerings;

2 Credit institutions established in France;

3 Investment firms established in France;

4 Legal entities whose members or partners are indefinitely and jointly liable for their debts and commitments, provided that such members or partners are institutions or companies referred to in 2 and 3 which are authorised to provide administration or custody for financial instruments;

5 Legal entities established in France having as their primary or sole purpose the custody or administration of financial instruments;

6 The institutions referred to in Article L. 518-1;

7 As provided for in the General Regulations of the Financial Markets Authority, credit institutions, investment firms and legal entities having as their primary or sole purpose the custody or administration of financial instruments which are not established in France.

The persons referred to in 1 are subject, in regard to their financial instrument custody or administration activities, to

the control and sanctions of the Financial Markets Authority. The persons referred to in 2 to 5 are subject, in regard to their financial instrument custody or administration activities, to the laws and regulations, the rules of supervision and the sanctions laid down for investment service providers by the present code. Persons referred to in 2 and 3 are subject, in regard to their financial instrument custody or administration activities, to an authorisation issued in connection with their approval. Persons referred to in 5 are subject to the rules of approval laid down for investment firms by the present code.

Persons referred to in 7 must be subject in their State of origin to rules governing the custody or administration of financial instruments and supervision equivalent to those applied in France. The Financial Markets Authority shall exercise in relation to such persons the powers of supervision and sanction stipulated for investment service providers in the present code, taking the supervision carried out by the proper authorities of each State into account.

Article L543-1
(Act No. 2003-706 of 1 August 2003 Art. 41 I, IV Official Journal of 2 August 2003)
(Act No. 2003-706 of 1 August 2003 Art. 68 I c) Official Journal of 2 August 2003 effective 13 February 2004)
(inserted by Order No. 2005-429 of 6 May 2005 Art. 73 Official Journal of 7 May 2005)

The management companies of undertakings for collective investment are the portfolio management companies, the management companies of undertakings for collective investment in transferable securities, the management companies of securitisation funds, the management companies of real-property investment partnerships, and the management companies of forestry savings associations.

Article L544-1
(inserted by Order No. 2003-706 of 1 August 2003 Article 42, Official Journal of 2 August 2003)

Whoever, in the normal course of his business, produces and distributes studies on legal entities that make public offerings with a view to formulating and disseminating an opinion on the likely development of the said legal entities and, if applicable, the likely price trend of the financial instruments they issue, is engaged in investment research.

Article L544-2
(inserted by Order No. 2003-706 of 1 August 2003 Article 42, Official Journal of 2 August 2003)

The executives of a company must refrain from having any dealings with financial analysts whose services they pay for which would have the purpose or effect of favouring their own interests, or those of their shareholders, to the detriment of truthful information.

Article L544-3
(inserted by Order No. 2003-706 of 1 August 2003 Article 42, Official Journal of 2 August 2003)

All documents drawn up in the preparation of publications circulated under the responsibility of an investment research department or a rating agency must be retained for three years and held available to the Financial Markets Authority within the scope of its mission defined in II of Article L. 621-9.

Article L544-4
(inserted by Order No. 2003-706 of 1 August 2003 Article 42, Official Journal of 2 August 2003)

Each year the Financial Markets Authority publishes a report on the role of the rating agencies, their ethical rules, the transparency of their methods and the impact of their activities on the issuers and the financial markets.

Article L550-1
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 54 I 3, Official Journal of 2 August 2003)

The following are subject to the provisions of Articles L. 550-2, L. 550-3, L. 550-4, L. 550-5 and L. 573-8:

1. Whoever, directly or indirectly, by means of advertising or canvassing, regularly invites third parties to subscribe to life annuities or to acquire title to movable or immovable property when the acquirers do not perform the management thereof themselves or when the contract offers a buy-back or exchange option with revaluation of the capital invested;

2. Whoever collects funds to that end;

3. Any person responsible for the management of such property.

These articles do not apply to activities already governed by specific provisions such as insurance and capitalisation transactions governed by the Insurance Code, deferred credit transactions, transactions governed by the Mutual Insurance Code and the Social Security Code, or transactions normally giving entitlement to attribution of ownership or enjoyment of specific parts of one or more buildings.

The persons referred to in the present article are subject to the provisions of Articles L. 341-1 to L. 341-17 and L.

353-1 to L. 353-5 if they use canvassing.

Article L550-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Only joint-stock companies may, in connection with the transactions referred to in Article L. 550-1, receive the sums corresponding to the acquirers' subscriptions or the payment of their investment income. Such companies must prove, before any advertising or canvassing takes place, that their fully paid-up capital is at least equal to the amount which Article L. 224-2 of the Commercial Code imposes for companies that make public offerings.

Article L550-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Before any advertising or canvassing takes place, a document designed to provide all relevant information to the public on the proposed operation, the person taking the initiative and the management company must be drawn up as determined by decree.

If the investor has not received the information document prior to execution of the contract, or if the terms of the contract are inconsistent with the content of the information document, the judge may grant him compensation or declare the contract cancelled.

Draft information documents and draft model contracts are submitted to the Stock Exchange Commission, which, as determined by the present Code, exercises supervision over all the companies participating in the operation and determines whether they provide the minimum guarantees required for an investment intended for the public.

The Commission may limit or stipulate the conditions of the advertising to take account of the nature of the products and the guarantees offered.

It has a period of thirty days with effect from submission, which it may extend to sixty days by a reasoned decision, in which to formulate its observations. Advertising or canvassing cannot commence until the Commission's observations have been complied with or, in the absence of any observations, until the aforementioned period has expired. A copy of the documents circulated is submitted to the Stock Exchange Commission.

Whoever proposes to substitute himself for the manager of the property or the person required to fulfil the commitments referred to in 1 of Article L. 550-1 must submit a draft information document and a draft model contract to the Stock Exchange Commission, which shall exercise supervision as stipulated in the third paragraph above.

In the event of a change in the circumstances in which management of the property or fulfilment of the commitments is performed, the rightholders' consent to the change is validly given only when they have been specially informed of the proposed change, the scope thereof and the reasons therefor, in a document submitted to the Stock Exchange Commission. The latter may request that the said document be brought into compliance with its observations.

If the Stock Exchange Commission finds that the operation proposed to the public is no longer consistent with the content of the information document and the model contract, or no longer provides the guarantees envisaged in the present article, it may, through a reasoned decision, order that all canvassing or advertising concerning the operation must cease.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L550-4
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

A the close of each annual accounting period, the management company draws up, in addition to its own accounts, an inventory of the property it manages and a statement of the sums received on behalf of the rightholders during the accounting period. It draws up a report on its business and the management of the property.

It draws up a balance sheet, a profit and loss account and an appendix. The accounts are checked by an auditor who certifies the true and fair nature thereof.

The documents referred to in the first two paragraphs are sent to the rightholders and to the Stock Exchange Commission within three months of the close of the accounting period.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L550-5
(Act No. 2003-706 of 1 August 2003 Art. 40 Official Journal of 2 August 2003)
(Order No. 2005-1126 of 8 September 2005 Art. 21 Official Journal of 9 September 2005)

At the request of the management company, the auditor is appointed for six accounting periods through a court decision made after consultation with the Financial Markets Authority. In the event of misconduct or indisposition, the auditor may be relieved of his functions by a court decision at the request of the management company or any rightholder.

Part VI

Article L561-1

(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Persons other than those referred to in Article L. 562-1 who, in the normal course of their business, execute, supervise or recommend transactions giving rise to capital movements, are required to declare to the Public Prosecutor any transactions they have knowledge of which involve sums which they know to be the proceeds of an offence referred to in Article L. 562-2.

When they have made such a declaration in good faith, such persons benefit from the provisions of Article L. 562-8. They are required to comply with the obligations indicated in Article L. 574-1. The Public Prosecutor informs the department referred to in Article L. 562-4, which provides it with all the relevant information.

Article L562-1

(Act No. 2001-420 of 15 May 2001 Art. 33 I Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 43 I, Art. 70 2 Official Journal of 2 August 2003)
(Act No. 2004-130 of 11 February 2004 Art. 70 I Official Journal of 12 February 2004)
(Order No. 2004-604 of 24 June 2004 Art. 52 XI Official Journal of 26 June 2004)
(Act No. 2004-804 of 9 August 2004 Art. 23 Official Journal of 11 August 2004)
(Act No. 2004-204 of 9 March 2004 Art. 33 VI Official Journal of 10 March 2004 effective 1 October 2004)
(Order No. 2005-429 of 6 May 2005 Art. 73 II Official Journal of 7 May 2005)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The provisions of the present chapter apply to:

1. Organisations, institutions and departments governed by the provisions of Part I of the present Book;

2. The Bank of France, the Issuing Institution of the Overseas Departments and the Overseas Issuing Institution;

3. The companies and departments referred to in Article L. 310-1 of the Insurance Code, and insurance and reinsurance brokers;

3 bis. The institutions or unions governed by Parts III and IV of Book IX of the Social Security Code or coming under II of Article L. 727-2 of the Rural Code;

4. Organisations that come within the scope of Article L. 111-1 of the Mutuality Code (1);

5. Investment firms, members of regulated financial instruments markets and the legal entities referred to in Articles L. 421-8 and L. 442-2, as well as the undertakings for collective investment in transferable securities referred to in 1 of I of Article L. 214-1, the management companies of undertakings for collective investment referred to in Article L. 543-1, the miscellaneous property intermediaries referred to in Part V of the present Book, the persons authorised to canvass referred to in Articles L. 341-3 and L. 341-4, and financial investment advisors.

6. Money changers;

7. Persons who execute, supervise, or recommend transactions relating to the acquisition, sale, transfer or letting of real property;

8. The legal representatives and managers responsible for casinos, groups, clubs and companies which organise games of chance, lotteries, betting and sporting or racing tips;

9. Persons who regularly engage in trading in, or organising the sale of, gems, precious materials, antiques and works of art;

10. Companies entitled to the exemption provided for in II of Article L. 511-7;

11. Accountants and auditors;

12. Notaries, bailiffs, receivers and court-appointed administrators, as well as advocates of the Conseil d'Etat and of the Court of Cassation, and counsel of the Courts of Appeal, as determined in Article L. 562-2-1;

13. Court-appointed auctioneers and valuers and companies effecting voluntary sales of furniture at public auctions;

14. The authorised intermediaries referred to in Article L. 211-4.

For the purposes of the present Part, the persons referred to in 1 to 6 are referred to as financial entities.

NB (1): Article L111-1 of the Mutuality Code was revoked by Article 3 of Order No. 2001-350 of 19 April 2001.

Article L562-2

(Act No. 2001-420 of 15 May 2001 Art. 34 I Official Journal of 16 May 2001)
(Act No. 2004-130 of 11 February 2004 Art. 70 III Official Journal of 12 February 2004)
(Act No. 2004-204 of 9 March 2004 Art. 33 VII 1 Official Journal of 10 March 2004 effective 1 October 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The financial entities and the persons referred to in Article L. 562-1 are required, as stipulated by the present Part, to declare to the department instituted by Article L. 562-4:

1. Any sums entered in their books which might derive from drug trafficking, from fraud against the financial

interests of the European Communities, from corruption or from organised crime, or which might contribute to the financing of terrorism;

2. Any transactions involving sums which might derive from drug trafficking, from fraud against the financial interests of the European Communities, from corruption or from organised crime, or which might contribute to the financing of terrorism.

The financial entities are also required to declare the following to the said department:

1. Any transaction in which the identity of the principal or the recipient remains dubious despite the checks carried out pursuant to Article L. 563-1;

2. Transactions executed by financial entities for their own account, or on behalf of third parties, with natural persons or legal entities, including their subsidiaries or establishments, acting as, or on behalf of, fiduciary funds or some other asset management instrument, when the identity of the grantors or the recipients is not known.

A decree may extend the obligation to declare stipulated in the first paragraph to own-account transactions or transactions on behalf of third parties executed by financial entities with natural persons or legal entities, including their subsidiaries or establishments, domiciled, registered or established in any of the States or territories whose legislation is recognised as inadequate or whose practises are considered to obstruct the fight against money laundering by the international authority for consultation and coordination in regard to the fight against money laundering. The said decree shall determine the minimum amount of the transactions subject to declaration.

Article L562-2-1

(Act No. 2004-130 of 11 February 2004 Art. 70 II Official Journal of 12 February 2004)
(Act No. 2004-1343 of 9 December 2004 Art. 8 Official Journal of 10 December 2004)
(Order No. 2006-60 of 19 January 2006 Art. 6 IV Official Journal of 20 January 2006)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The persons referred to in 12 of Article L. 562-1 are required to make the declaration stipulated in Article L. 562-2 when, in the context of their professional activity, they execute for and on behalf of their customers any financial or real-property transaction or when they participate by assisting their customers with the preparation or execution of transactions relating to:

1 The buying and selling of real property or business concerns;

2 The management of funds, securities or other assets belonging to the customer;

3 The opening of bank current accounts, savings accounts or securities accounts;

4 Organisation of the contributions required to create companies;

5 The formation, administration or management of companies;

6 The formation, administration or management of foreign-law trusts or any similar structure.

The persons referred to in 12 of Article L. 562-1, when they are engaged in activities relating to the transactions referred to above, and accountants when they give legal advice pursuant to the provisions of Article 22 of order No. 45-2138 of 19 September 1945 which instituted the Order of Accountants and regulates the title and profession of the accountant, are not required to make the declaration stipulated in Article L. 562-2 when the information was received from one of their clients, or obtained on one of them, within the framework of a legal consultation, unless it took place for money-laundering purposes, or if such persons proceed therewith knowing that their client wished to obtain legal advice for money-laundering purposes, or when they provide their professional services in the interest of that client in connection with judicial proceedings, whether that information was received or obtained before, during or after those proceedings, including advice given in relation to the means of initiating or avoiding such proceedings.

Notwithstanding Article L. 562-2, advocates of the Conseil d'Etat and of the Court of Cassation, and legal counsel of the Courts of Appeal send their declarations, as applicable, to the president of the Order of Advocates of the Conseil d'Etat and of the Court of Cassation, to the president of the order which the advocate belongs to or to the president of the professional body which the counsel belongs to. Those authorities send the declarations sent to them by the advocate or the counsel to the department instituted by Article L. 562-4, unless they consider that the suspicion of money laundering is unfounded.

In which case, the president of the Order of Advocates of the Conseil d'Etat and of the Court of Cassation, or the president of the order which the advocate belongs to or the president of the professional body which the counsel belongs to informs the advocate or the counsel of the reasons why he believed he should not forward the information that he had sent to him. The president of the order or of the professional body who has received a declaration which he has not forwarded to the department instituted by Article L. 562-4 sends the information contained in that declaration to the president of the National Bar Chamber or to the president of the National Chamber of Legal Counsel. The information thus forwarded does not contain any references to the identity of the persons. Under the same conditions, the president of the Order of Advocates of the Conseil d'Etat and of the Court of Cassation, the president of the National Bar Chamber and the president of the National Chamber of Legal Counsel send a report to the Minister of Justice on the situations which did not give rise to communication of the declarations within a time limit set in a Conseil d'Etat decree.

The department instituted by Article L. 562-4 receives that same information from the Minister of Justice.

Article L562-3

(Act No. 2001-420 of 15 May 2001 Art. 33 II Official Journal of 16 May 2001)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Any information likely to alter the assessment made by the financial entity or the person referred to in Article L. 562-1 concerning the declaration referred to in Article L. 562-2 must be immediately brought to the attention of the department instituted by Article L. 562-4.

Article L562-4

(Act No. 2001-420 of 15 May 2001 Art. 40 I and II Official Journal of 16 May 2001)
(Act No. 2004-204 of 9 March 2004 Art. 33 VII 2, VIII Official Journal of 10 March 2004 effective 1 October 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

A department, placed under the authority of the Minister for the Economy, receives the declaration referred to in Article L. 562-2. That department is composed of public agents of the State who are specially empowered by the Minister, as determined in a Conseil d'Etat decree. The said department collects and assembles all the information needed to establish the origin of the sums or the nature of the transactions which have been the subject of a declaration referred to in Article L. 562-2, the special inspection provided for in Article L. 563-3 or an investigation referred to in Article L. 563-5. As soon as the information collected reveals facts likely to relate to drug trafficking or organised crime or the financing of terrorism, it refers the matter to the Public Prosecutor, informing him, if applicable, that it has also been submitted to the customs administration with a view to it carrying out investigations to seek and establish the offence referred to in Article 415 of the Customs Code.

The Public Prosecutor sends all final decisions handed down in cases which have been the subject of a declaration of suspicion pursuant to the present Part to the department referred to above.

Article L562-5

(Act No. 2001-420 of 15 May 2001 Art. 33 II, Art. 34 II Official Journal of 16 May 2001)
(Act No. 2004-204 of 9 March 2004 Art. 33 VII 2 Official Journal of 10 March 2004 effective 1 October 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Without prejudice to the provisions of Article L. 562-6, the department instituted by Article L. 562-4 acknowledges receipt of the declaration within the time limit applicable to the transaction. It may oppose execution of the transaction. In which case, it is deferred for a maximum period of twelve hours.

If the acknowledgement of receipt is not accompanied by a stop notice, or if, upon expiry of the period stipulated in the stop notice, no decision of the presiding judge of the tribunal de grande instance of Paris or, if applicable, of the investigating judge, has reached the financial entity or the person referred to in Article L. 562-1 who made the declaration, the transaction may be executed.

If it has been impossible to stay their execution, the declaration relates to transactions that have already been executed. The same applies when it has emerged subsequent to execution of the transaction that the sums could be derived from drug trafficking, or organised crime or the financing of terrorism. The department instituted by Article L. 562-4 acknowledges receipt of such declarations.

The presiding judge of the tribunal de grande instance of Paris may, at the request of the department instituted by Article L. 562-4, and after consulting the Public Prosecutor of the tribunal de grande instance of Paris, extend the period indicated in the first paragraph of the present article or order the provisional sequestration of the funds, accounts or securities covered by the declaration. The Public Prosecutor of the tribunal de grande instance of Paris may submit a request having the same object. The order which grants the request is enforceable at once before any notice is served on the person concerned by the declaration.

Article L562-6

(Act No. 2001-420 of 15 May 2001 Art. 33 II, Art. 41 Official Journal of 16 May 2001)
(Act No. 2004-204 of 9 March 2004 Art. 33 IX Official Journal of 10 March 2004 effective 1 October 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The declaration may be verbal or written. The financial entity or the person referred to in Article L. 562-1 may ask the department instituted by Article L. 562-4 not to acknowledge receipt of the declaration. In the event of that department referring the case to the Public Prosecutor, the declaration, which the latter is informed of, does not appear in the case file.

When, based on a declaration made pursuant to Articles L. 562-2, L. 563-1, L. 563-1-1 and L. 563-3 to L. 563-5, the department instituted by Article L. 562-4 refers the matter to the Public Prosecutor, it informs the financial entity or the declarant thereof, as determined in a Conseil d'Etat decree.

Article L562-7

(Act No. 2001-420 of 15 May 2001 Art. 33 II, Art. 43 Official Journal of 16 May 2001)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

When, as a result of either a serious lack of diligence or a failure in the organisation of its internal verification procedures, a financial entity or person referred to in Article L. 562-1 has failed to comply with the obligations deriving from the present Part, the authority having disciplinary powers institutes proceedings founded on the professional or administrative rules and informs the Public Prosecutor thereof.

Article L562-8

(Act No. 2001-420 of 15 May 2001 Art. 33 II Official Journal of 16 May 2001)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

For sums or transactions which have been the subject of the declaration referred to in Article L. 562-2, no action founded on Articles 226-13 and 226-14 of the Penal Code may be brought against executives or employees of the financial entity or against the other persons referred to in Article L. 562-1 who made that declaration in good faith.

No action for civil damages or professional sanction may be brought against a financial entity, its executives or its employees, or against another person referred to in Article L. 562-1 who have made the declaration referred to in Article L. 562-2 in good faith. In the event of damage resulting directly from such a declaration, the State assumes liability

therefor.

The provisions of the present article apply even if proof of the criminal nature of the facts giving rise to the declaration is not produced or if those facts have resulted in a decision to nonsuit, acquit or discharge.

When the transaction has been executed as provided for in Article L. 562-5, and barring any fraudulent collusion with the owner of the sums or the initiator of the transaction, the financial entity is exempted from any liability, and no criminal proceedings may therefore be brought against its executives or employees pursuant to articles 222-34 to 222-41, 321-1, 321-2, 321-3 and 324-1 of the Penal Code or Article 415 of the Customs Code. The other persons referred to in Article L. 562-1 are also exempted from any liability.

Article L562-10

(Act No. 2001-420 of 15 May 2001 Art. 35 Official Journal of 16 May 2001)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The department instituted by Article L. 562-4 heads up a liaison committee in the fight against the laundering of the proceeds of crime and other offences and against the financing of terrorist activities, which, as determined by decree, is composed of the professions referred to in Article L. 562-1, the supervisory authorities and the relevant Government departments.

CHAPTER III
Other Vigilance Obligations

Articles L563-1 to L563-6

Article L563-1

(Act No. 2004-130 of 11 February 2004 Art. 70 IV, X Official Journal of 12 February 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I, III Official Journal of 24 January 2006)

The financial entities or the persons referred to in Article L. 562-1 shall, before entering into a contractual relationship or assisting a client with the preparation or execution of a transaction, confirm the identity of the co-contracting party through production of any probative document. They shall likewise confirm the identity of any occasional client who asks them to carry out transactions of the types, and in the amounts, determined in a Conseil d'Etat decree. The persons referred to in 8 of Article L. 562-1 meet that obligation by applying the measures stipulated in Article 565-1.

They determine the true identity of the persons with whom they enter into a contractual relationship or who request their assistance with the preparation or execution of a transaction when it appears to them that those persons may not be acting on their own behalf.

The financial entities and the persons referred to in Article L. 562-1 take specific and appropriate measures, as determined by decree, to deal with the increased risk of money laundering which exists when they enter into a contractual relationship with a client who is not physically present for identification purposes or when they assist him with the preparation or execution of a transaction.

Article L563-1-1

(Act No. 2001-420 of 15 May 2001 Art. 36 Official Journal of 16 May 2001)
(Act No. 2004-130 of 11 February 2004 Art. 70 X Official Journal of 12 February 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

To ensure application of the recommendations made by the international authority for consultation and coordination in regard to the fight against money laundering, the Government may, for public order reasons and as determined in a Conseil d'Etat decree, make some or all of the transactions executed for their own account or on behalf of third parties by financial entities established in France or with natural persons or legal entities referred to in the sixth paragraph of Article L. 562-2, or domiciled, registered or holding an account with an institution located in a State or territory referred to in the seventh paragraph of that same article, subject to specific conditions, or restrict or prohibit them.

Article L563-2

(Act No. 2004-130 of 11 February 2004 Art. 70 X Official Journal of 12 February 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The provisions of Article L. 563-1 apply to bonds and other securities referred to in Article 990 A of the General Tax Code.

The tax scheme of those bonds and other securities is maintained.

The provisions of the second paragraph of Article 537 of the General Tax Code shall not impede application of Article L. 563-1. However, the information referred to in that article is recorded in a register separate from that instituted by Article 537 of the General Tax Code. Since the client has not authorised the financial entity to communicate his identity and tax domicile to the tax authorities, the right to communication provided for in Articles L. 83, L. 85, L. 87 and L. 89 of the Book of Fiscal Procedures does not apply to either the register instituted by the present article or to the supporting documents referred to in the first paragraph of Article L. 563-1 prepared in connection with transactions involving bonds and other securities referred to in Article 990 A and in the second paragraph of Article 537 of the General Tax Code.

Article L563-3

(Act No. 2004-130 of 11 February 2004 Art. 70 V, X Official Journal of 12 February 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Any major transaction involving sums of a unitary or total amount greater than a sum determined in a Conseil d'Etat decree and which, without coming within the scope of Article L. 562-2, is subject to unusually complex conditions and does not appear to have any economic justification or lawful purpose, must be subject to special scrutiny by the financial entity or the person referred to in Article L. 562-1. In such cases, the financial entity or the person referred to in Article L. 562-1 makes inquiries of the client as to the origin and destination of those sums, the purpose of the transaction and the identity of the recipient.

The details of the transaction are consigned in writing and retained by the financial entity or the person referred to in Article L. 562-1, as determined in Article L. 563-4. Only the department instituted by Article L. 562-4 and the supervisory authority may obtain communication of that document and its appendices.

The financial entity or the person referred to in Article L. 562-1 must ensure that the obligations laid down in the previous paragraph are complied with by its branches or subsidiary companies having their registered office abroad, unless the local legislation impedes this, in which case, they inform the department instituted by Article L. 562-4 thereof.

Article L563-4

(Act No. 2001-420 of 15 May 2001 Art. 38 Official Journal of 16 May 2001)
(Act No. 2004-130 of 11 February 2004 Art. 70 VI, X Official Journal of 12 February 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I, III Official Journal of 24 January 2006)

Without prejudice to provisions which impose more restrictive obligations, the financial entities and persons referred to in Article L. 562-1 shall retain the documents relating to the identity of their regular or occasional clients for five years with effect from closure of their accounts or cessation of their relations with them. They shall also hold the documents relating to the transactions carried out by them for five years with effect from their execution.

For application of the present Part, the department instituted by Article L. 562-4 and the supervisory authority may request that those documents be communicated to them to enable them to reconstitute all the transactions carried out by a natural person or legal entity in connection with a transaction which was the subject of a declaration referred to in Article L. 562-2, the special scrutiny referred to in Article L. 563-3 or an investigation referred to in Article L. 563-5, and to enable them to inform the corresponding departments of other States, as determined in Article L. 565-2.

Article L563-5

(Act No. 2001-420 of 15 May 2001 Art. 39 Official Journal of 16 May 2001)
(Act No. 2004-130 of 11 February 2004 Art. 70 X Official Journal of 12 February 2004)
(Act No. 2004-204 of 9 March 2004 Art. 33 X Official Journal of 10 March 2004 effective 1 October 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Without prejudice to application of Article 40 of the Code of Criminal Proceedings, the information collected by the department instituted by Article L. 562-4 and the supervisory authorities pursuant to Articles L. 562-2 and L. 563-2 to L. 563-4 cannot be used for purposes other than those envisaged by the present Part.

Disclosure thereof is prohibited. Provided that such information relates to the facts referred to in Article L. 562-2, the department instituted by Article L. 562-4 is nevertheless authorised to communicate the information collected to law enforcement officers designated by the Minister of the Interior as determined in a Conseil d'Etat decree, and to the supervisory authorities. It may also communicate such information to the customs authorities. It may receive from law enforcement officers and the supervisory authorities, and from Government departments, the territorial authorities, the public institutions and the organisations referred to in Article L. 134-1 of the Financial Jurisdictions Code, all the information it requires to accomplish its mission.

Article L563-6

(Act No. 2004-130 of 11 February 2004 Art. 70 VII, X Official Journal of 12 February 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

When, as a result of either a serious lack of diligence or a failure in the organisation of its internal verification procedures, a financial entity or a person referred to in Article L. 562-1 has failed to meet the obligations imposed on them by the present Chapter, the authority having disciplinary powers may act automatically, as provided for in the professional or administrative rules.

CHAPTER IV
Obligations relating to the Fight against the Financing of Terrorist Activities — Articles L564-1 to L564-6

Article L564-1

(Act No. 2004-204 of 9 March 2004 Art. 33 VI 2 Official Journal of 10 March 2004 effective 1 October 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Financial entities and the persons referred to in 1 to 5 and 7 of Article L. 562-1 that hold or receive funds, financial instruments and economic resources are required to implement prohibition and freezing orders imposed by virtue of the present chapter.

For the purposes of the present chapter, "funds, financial instruments and economic resources" shall mean assets of whatever kind, tangible or intangible, movable or immovable, acquired through whatever means, and documents or legal instruments in whatever form, including electronic and digitised forms, which prove a property right or interest in such assets, including, inter alia, bank credits, travellers cheques, bank cheques, postal orders, shares, securities, bonds, bills and letters of credit.

Article L564-2

(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Without prejudice to specific restrictive measures taken pursuant to the regulations of the Council of the European Union and measures imposed by the judicial authorities, the Minister for the Economy may decide to freeze, for a renewable period of six months, some or all of any funds, financial instruments and economic resources held by the entities and persons referred to in Article L. 564-1 which belong to natural persons or legal entities who commit, or attempt to commit, terrorist acts, as defined in 4 of Article 1 of (EC) Council Regulation No. 2580/2001, of 27 December 2001, relating to the use of specific restrictive measures against certain persons and entities in connection with the fight against terrorism, or who facilitate or participate in such acts, and against legal entities which are held by such natural persons or legal entities or are directly or indirectly controlled by them within the meaning of 5 and 6 of the aforementioned Article 1 of (EC) Council Regulation No. 2580/2001, of 27 December 2001. The income produced by the aforementioned funds, instruments and resources is also frozen.

The "Freezing" of funds, financial instruments and economic resources held by the entities and persons referred to in Article L. 564-1 shall entail any action intended to prevent any movement, transfer or use of those funds, financial instruments and economic resources which would result in a change in their value, their location, their ownership or their nature, or any other change which could facilitate their use by the persons against whom the freezing order is applied.

The Minister for the Economy may also decide to prohibit any movement or transfer of funds, financial instruments and economic resources for the benefit of the natural persons or legal entities referred to in the first paragraph for a renewable period of six months.

Decisions of the Minister taken pursuant to the present article are published in the Official Journal and are enforceable with effect from their date of publication.

Article L564-3

(Act No. 2003-706 of 1 August 2003 Art. 43 II, III, IV Official Journal of 2 August 2003)
(Act No. 2004-130 of 11 February 2004 Art. 70 VIII Official Journal of 12 February 2004)
(Order No. 2005-429 of 6 May 2005 Art. 74 Official Journal of 7 May 2005)
(Act No. 2005-516 of 20 May 2005 Art. 16 IV Official Journal of 21 May 2005 effective 31 December 2005)
(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

(Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The prohibition and freezing orders imposed by virtue of the present chapter apply to any co-owner of the aforementioned funds, instruments and resources, and to any person who holds an account jointly with a person who is an owner, remainderman or usufructuary referred to in the first paragraph of Article L. 564-2.

These measures are binding on any creditor and any third party able to invoke rights over the funds, financial instruments and economic resources in question, even if the origin of such receivables or other rights precedes publication of the order.

The measures referred to in the third paragraph of Article L. 564-2 apply to movements or transfers of funds, financial instruments and economic resources on instructions given prior to the date of publication of the prohibition decision.

Article L564-4

(inserted by Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Banking secrecy or professional secrecy shall not impede exchanges of information between the entities and persons referred to in Article L. 564-1 and the Government departments responsible for implementing a freezing or prohibition measure on the movement or transfer of funds, financial instruments and economic resources when such information is needed to verify the identity of the persons directly or indirectly affected by that measure. The information provided or exchanged shall be used solely for that purpose.

The Government departments responsible for implementing a freezing or prohibition measure on the movement or transfer of funds, financial instruments and economic resources and the authorising and supervisory authorities of the entities and persons referred to in Article L. 564-1 are authorised to exchange the information needed for accomplishment of their respective duties.

Article L564-5

(inserted by Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

The State is liable in respect of any prejudicial consequences of implementation in good faith by the financial entities and the persons referred to in Article L. 564-1, their managers or their employees, of the freezing or prohibition measures referred to in Article L. 564-2. No professional sanction may be imposed on such entities or persons, their managers or their employees.

Article L564-6

(inserted by Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

A Conseil d'Etat decree determines the present chapter's implementing provisions, including the circumstances in which the entities and the persons referred to in Article L. 564-1 are required to implement freezing or prohibition measures on the movement or transfer of funds, financial instruments and economic resources imposed by virtue of the present chapter.

CHAPTER V

Article L565-1
(inserted by Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Casinos which exchange means of payment, tokens or chips, or which accept the tokens or chips of other casinos are required to register the names and addresses of the gamblers who exchange or bring with them tokens and chips having a value above an amount determined by decree.

Groups, clubs and companies which organise games of chance, lotteries, betting and sporting or racing tips are required to determine, through production of any probative document, the identity of gamblers winning sums above an amount determined by decree and to record those gamblers' names and addresses, and the amount of the sums they have won. This information must be held for five years.

Article L562-2
(inserted by Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

Consistent with the legislative provisions and international agreements applicable to the protection of privacy and the communication of personalised information, the department instituted by Article L. 562-4 may communicate to the corresponding authorities of other States the information it holds concerning transactions which appear to have as their purpose the investment, concealment, conversion or transfer of sums deriving from an offence referred to in Articles 222-34 to 222-39 and 324-1 of the Penal Code or in Article 415 of the Customs Code, subject to reciprocity and provided that the relevant foreign authorities are subject to the same professional-secrecy obligations as the aforementioned department.

Such communication cannot be permitted if criminal proceedings have already been instituted in France on the basis of the same facts or if it would jeopardise French sovereignty, security or essential interests, or affect public order.

Article L565-3
(inserted by Act No. 2006-64 of 23 January 2006 Art. 23 I Official Journal of 24 January 2006)

A Conseil d'Etat decree determines the present Part's implementing legislation, without prejudice to the professional or administrative rules stipulated in the legislation applicable to the financial entities and persons referred to in Article L. 562-1.

For application of the present Part:

1 The Banking Commission exercises supervisory and disciplinary powers over the companies referred to in 5 of Article L. 562-1. It may impose the penalties provided for in Article L. 613-21.

2 The Finance Inspectorate exercises supervision over the Caisse des dépôts et consignations and the Post Office. The results of the Finance Inspectorate's investigations are made known, as applicable, to the supervisory committee of the Caisse des dépôts et consignations or the High Commission referred to in Article 125 of the Post and Electronic Communications Code.

3 The Financial Markets Authority exercises supervision over, and the power to impose penalties on, the undertakings for collective investment in transferable securities referred to in 1 of I of Article L. 214-1, the management companies of undertakings for collective investment referred to in L. 543-1, the miscellaneous property intermediaries referred to in Part V of the present Book, the persons authorised to canvass referred to in Articles L. 341-3 and L. 341-4 and financial investment advisors.

NB: Act 2005-516 2005-05-20 Art. 16 V:

1 - Investments made pursuant to the provisions of the aforementioned Article 15 of Act No. 90-568 of 2 July 1990 in its wording in force on the date of publication hereof shall continue to be governed by these provisions until they mature.

2 - The provisions of I to IV shall enter into force on the date of the transfer indicated in 1 of II. Decree No. 2005-1068 of 30 August 2005 determines the said date of transfer as 31 December 2005.

Part VII
Criminal Provisions

Articles L571-1 to L570-2

Article L570-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 2 Official Journal of 7 May 2005)

The fact of any natural person disregarding one of the incapacities laid down in Article L. 500-1 shall incur a penalty of three years' imprisonment and a fine of three hundred and seventy-five thousand euros.

Article L570-2
(inserted by Order No. 2005-429 of 6 May 2005 Art. 3 Official Journal of 7 May 2005)

Whoever is convicted pursuant to Article L. 570-1 shall no longer be employed, in whatever capacity, in the entity in which he performed management or administrative functions or was a member of a collegiate supervisory organ or had signing authority, or in any subsidiary of that entity.

The fact of any natural person disregarding the incapacity laid down in the present article shall incur the penalties imposed by Article L. 570-1. An employer who knowingly so acts shall incur the same penalties.

CHAPTER I

Article L571-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Legal entities may be declared liable in criminal law, as determined in Article 121-2 of the Penal Code, for the offences indicated in Articles L. 571-3, L. 571-4, L. 571-6 to L. 571-9, L. 571-14 and L. 571-16.

The penalties thus incurred by the legal entities are:

1. A fine as provided for in Article 131-38 of the Penal Code.

2. The penalties referred to in Article 131-39 of that same Code.

The disqualification referred to in 2 of Article 131-39 of the Penal Code relates to the activity in connection with which, or in parallel with which, the offence was committed.

Article L571-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The judicial authorities to which proceedings relating to offences covered by Articles L. 571-3 to L. 571-9 and L. 571-14 to L. 571-16 are referred may ask the Banking Commission for any relevant advice and information at any stage of the proceedings.

Article L571-3
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of any person violating one of the prohibitions laid down in Articles L. 511-5 and L. 511-8 shall incur a penalty of three years' imprisonment and a fine of 375,000 euros.

The court may order the posting or publication of the decision rendered, as determined in Article 131-35 of the Penal Code.

Article L571-4
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of any executive of a credit institution, or a legal entity or subsidiary referred to in Article L. 613-10, not responding, after service of a formal demand, to requests for information from the Banking Commission, or in any way obstructing performance of its supervisory role, or providing it with inaccurate information, shall incur one year's imprisonment and a fine of 15,000 euros.

The fact of the persons referred to in Articles L. 511-33 and L. 511-34 violating professional secrecy shall incur the penalties provided for in Articles 226-13 and 226-14 of the Penal Code.

Article L571-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Articles L. 242-26 and L. 242-27 of the Commercial Code are applicable to the auditors of all credit institutions, investment firms and financial holding companies, regardless of their legal form.

Article L571-6
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a credit institution failing to draw up an inventory, a set of annual accounts and a management report for each year as determined in Article L. 511-35, shall incur a fine of 15,000 euros.

Article L571-7
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a credit institution failing to give effect to the appointment of the institution's auditors or not inviting them to any general meeting shall incur a penalty of two years' imprisonment and a fine of 30,000 euros.

The fact of any executive of a credit institution or any person in the service of such an institution obstructing the auditors' verifications or inspections or refusing to provide them, on the spot, with any document conducive to the performance of their assignment, including any contracts, books, accounting records and minute books, shall incur a penalty of five years' imprisonment and a fine of 75,000 euros.

Article L571-8
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a credit institution failing to publish the annual accounts as determined in Article L. 511-37 shall incur a fine of 15,000 euros.

Article L571-9

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of the executives of a credit institution failing to draw up the consolidated accounts pursuant to Article L. 511-36 shall incur a fine of 15,000 euros.

SECTION II
Mutual or Cooperative Banks — Articles L571-10 to L571-11

Subsection 1
Popular Banks — Article L571-10

Article L571-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The fact of any company other than those referred to in Article L. 512-2 making use, in any form whatsoever, of the title or term "popular bank", shall incur the penalties provided for in Article 313-1 of the Penal Code.

Subsection 2
The Savings Bank Network — Article L571-11

Article L571-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties imposed by Articles 313-1 and 313-2 of the Penal Code also apply to whoever violates the prohibitions laid down in Article L. 512-102.

SECTION III
Municipal Credit Banks — Article L571-12

Article L571-12

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of any person opening or running a pawnbroking establishment without legal authorisation shall incur a penalty of six months' imprisonment and a fine of 9,000 euros.

The same sentence shall apply to any person having such authorisation who fails to maintain a register which, in accordance with the regulations, indicates on successive lines, without any space between the lines, the sums or objects loaned, the name, domicile and occupation of the borrowers, and the nature, quality and value of the objects pawned.

The same sentence shall also apply to the fact of regularly buying or selling the pledging receipts of municipal credit banks.

SECTION IV
Leasing Companies — Article L571-13

Article L571-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The fact of any person, either directly or on behalf of a company, engaging in the activities indicated in Article L. 515-2 without complying with the provisions of Part I of the present Book or its implementing legislation, shall incur the penalties provided for in Article L. 571-3.

SECTION V
Financial Holding Companies — Article L571-14

Article L571-14

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Order No. 2004-1201 of 12 November 2004 Art. 7 Official Journal of 16 November 2004)

The fact of the executives of a financial holding company or a mixed financial holding company failing to draw up consolidated accounts pursuant to Article L. 517-5 or L. 517-9 shall incur a fine of 15,000 euros.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION VI
Banking-Transaction Intermediaries — Articles L571-15 to L571-16

Article L571-15

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Order No. 2005-429 of 6 May 2005 Art. 76 Official Journal of 7 May 2005)

The fact of any natural person infringing one of the prohibitions imposed by Article L. 519-1 and the first sentence of

L. 519-2 shall incur a penalty of two years' imprisonment and a fine of 30,000 euros.

Article L571-16

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

The fact of any banking-transaction intermediary failing to meet the obligation instituted by Article L. 519-4 shall incur a penalty of one year's imprisonment and a fine of 15,000 euros.

CHAPTER II

Money-Changers — Articles L572-1 to L572-4

Article L572-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties imposed by Article L. 571-15 also apply to whoever, acting for his own account or on behalf of a legal entity, violates one of the prohibitions provided for in Articles L. 520-1 to L. 520-3.

Article L572-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The penalties imposed by Article L. 571-4 also apply to any person whose usual occupation is the execution of manual foreign exchange transactions and who, acting either for his own account or on behalf of a legal entity, fails, after receiving due formal notice, to respond to requests for information from the Banking Commission, or who in any way obstructs performance of its supervisory role, or provides it with inaccurate information.

Article L572-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The provisions of Article L. 571-2 are applicable to procedures relating to offences provided for in Articles L. 572-1 and L. 572-2.

Article L572-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

A sentence of six months' imprisonment and a fine of 7,500 euros is also incurred by anyone who opposes the exercising by customs officers of the powers vested in them by Article L. 520-4.

CHAPTER III

Provisions relating to Investment Service Providers and Financial Investment Advisors — Articles L573-1 to L573-11

SECTION I

Provisions relating to Investment Service Providers — Articles L573-1 to L573-8

Article L573-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

I. - The following acts, committed by any natural person, shall incur a penalty of three years' imprisonment and a fine of 375,000 euros:

1. Providing investment services to third parties in the normal course of his business without being authorised to do so as indicated in Article L. 532-1 or without being one of the persons referred to in Article L. 531-2;

2. Carrying out trading or transfers in France other than those referred to in the last six paragraphs of Article L. 421-7 relating to financial instruments admitted to trading on a regulated market, without having recourse to an investment service provider, or if such competitions are executed on a regulated market, a member of that market.

II. - Natural persons guilty of an offence covered by 1 and 2 above shall also incur the following additional penalties:

1. Forfeiture of civic, civil and family rights as provided for in Article 131-26 of the Penal Code;

2. Disqualification, pursuant to Article 131-27 of the Penal Code, from public office or from exercising the professional or corporate activity in connection with which the offence was committed, for a maximum period of five years;

3. The closure, for a maximum period of five years, of some or all of the company's facilities used to commit the criminal acts;

4. Confiscation of the material thing which was, or was intended to be, used to commit the offence, or the thing which is the product thereof, excluding objects subject to restitution;

5. Posting or publication of the decision rendered, as determined in Article 131-39 of the Penal Code.

Article L573-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)

(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

The fact of any natural person violating one of the prohibitions laid down in Article L. 531-11 shall incur a penalty of three years' imprisonment and a fine of 375,000 euros.

The court may also order the posting or publication of the decision rendered, as determined in Article 131-39 of the Penal Code.

Article L573-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

The fact of the executives of an investment firm failing to draw up an inventory, a set of annual accounts and a management report for each year as determined in Article L. 533-2, shall incur a fine of 15,000 euros.

Article L573-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

The fact of the executives of an investment firm failing to give effect to the appointment of the institution's auditors or not inviting them to any general meeting shall incur a penalty of two years' imprisonment and a fine of 30,000 euros.

The fact of the executives of an investment firm or any person in the service of such an institution obstructing the auditors' verifications or inspections or refusing to provide them, on the spot, with any document conducive to the performance of their assignment, including any contracts, books, accounting records and minute books, shall incur a penalty of five years' imprisonment and a fine of 75,000 euros.

Article L573-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

The fact of the executives of an investment firm failing to publish the company's annual accounts as determined in Article L. 533-2 shall incur a fine of 15,000 euros.

Article L573-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

The fact of the executives of an investment firm failing to draw up the consolidated accounts pursuant to Article L. 533-2 shall incur a fine of 15,000 euros.

Article L573-7

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

Legal entities may be declared criminally liable for the offences indicated in Articles L. 573-1 to L. 573-6, as determined in Article 121-2 of the Penal Code.

The penalties thus incurred by the legal entities are:

1 A fine as provided for in Article 131-38 of the Penal Code.

2 The penalties referred to in Article 131-39 of that same Code.

The disqualification referred to in 2 of Article 131-39 of the Penal Code relates to the activity in connection with which, or in parallel with which, the offence was committed.

Article L573-8

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 57 I 1, 2, Official Journal of 2 August 2003)

The fact of any person failing to meet the obligations imposed by Articles L. 550-3 and L. 550-4 shall incur a penalty of five years' imprisonment and a fine of 18,000 euros.

The fact of the management company failing to comply with the provisions of Article L. 550-5 shall incur a penalty of two years' imprisonment and a fine of 9,000 euros.

The fact of the auditor, either in his own name, or in his capacity as a partner in an auditing firm, giving or confirming untruthful information concerning the documents referred to in Article L. 550-4 or not revealing any criminal acts he was aware of to the Public Prosecutor, shall incur a penalty of five years' imprisonment and a fine of 18,000 euros.

SECTION II
Provisions relating to Financial Investment Advisors — Articles L573-9 to L573-11

Article L573-9

(Act No. 2003-706 of 1 August 2003 Art. 57 II Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 8 II Official Journal of 7 May 2005)

The following acts incur the penalties imposed by Article 313-1 of the Penal Code:

1 The fact of any person acting as a financial investment advisor as described in Article L. 541-1 without fulfilling the conditions laid down in Articles L. 541-2 to L. 541-5;

2 Revoked.

3 The fact of any person acting as a financial investment advisor receiving funds from his clients in breach of the prohibition imposed by Article L. 541-6.

Article L573-10

(inserted by Order No. 2003-706 of 1 August 2003 Article 57 II, Official Journal of 2 August 2003)

Natural persons guilty of one of the offences referred to in Article L. 573-9 shall also incur the following additional penalties:

1 Forfeiture of civic, civil and family rights as provided for in Article 131-26 of the Penal Code;

2 Disqualification, as provided for in Article 131-27 of that same code, from public office or from exercising the professional or corporate activity in connection with which the offence was committed, for a maximum period of five years;

3 Posting or publication of the decision rendered, as determined in Article 131-35 of that same code.

Article L573-11

(inserted by Order No. 2003-706 of 1 August 2003 Article 57 II, Official Journal of 2 August 2003)

Legal entities may be declared criminally liable for the offences indicated in Article L. 573-9, as determined in Article 121-2 of the Penal Code.

The penalties thus incurred by the legal entities are:

1 A fine as provided for in Article 131-38 of the Penal Code.

2 The penalties referred to in Article 131-39 of that same Code.

The disqualification referred to in 2 of Article 131-39 of the Penal Code relates to the activity in connection with which, or in parallel with which, the offence was committed.

Article L574-1

(Act No. 2001-420 of 15 May 2001 Art. 33 II Official Journal of 16 May 2001)
(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2004-130 of 11 February 2004 Art. 70 IX Official Journal of 12 February 2004)
(Act No. 2006-64 of 23 January 2006 Art. 23 II Official Journal of 24 January 2006)

Without prejudice to application of the penalties imposed for an offence under Articles 222-34 to 222-41 of the Penal Code and 415 of the Customs Code, the fact of the executives or agents of financial institutions or the other persons referred to in Article L. 562-1, with the exception of legal counsel and other legal professionals of the Conseil d'Etat and of the Court of Cassation, informing the owner of the sums or the initiator of one of the transactions referred to in Article L. 562-2 of the existence of the declaration made to the department instituted by Article L. 562-4 or divulging information concerning the likely consequences thereof shall incur a fine of 22,500 euros.

Article L574-2

(Act No. 2006-64 of 23 January 2006 Art. 23 II Official Journal of 24 January 2006)

The penalties imposed by Article 226-13 of the Penal Code apply to whoever disregards the prohibition imposed by the second paragraph of Article L. 563-5, without prejudice to the provisions of Article 226-14 of the Penal Code.

Article L574-3

(inserted by Act No. 2006-64 of 23 January 2006 Art. 23 II Official Journal of 24 January 2006)

The fact of any executive or employee of a financial entity or person referred to in Article L. 564-1, or any person against whom a freezing or prohibition measure is applied pursuant to Chapter IV of Part VI, eluding the obligations resulting therefrom or impeding implementation thereof shall incur the penalties imposed by Article 459 of the Customs Code.

The provisions relating to the detection of offences, legal proceedings, disputes and the prevention of offences under Parts II and XII of the Customs Code, without prejudice to articles 453 to 459 of that same code, are also applicable.

BOOK VI
Banking and Financial Authorities — Articles L611-1 to L642-3

Article L611-1

(Act No. 2003-706 of 1 August 2003 Art. 28 II 1,2, Art. 48 II 2 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 9 Official Journal of 16 November 2004)
(Order No. 2005-429 of 6 May 2005 Art. 77 Official Journal of 7 May 2005)

The Minister for the Economy determines the rules concerning:

1. The amount of the credit institutions' capital and the circumstances in which direct or indirect equity holdings in those institutions and in the financial entities referred to in Article L. 511-21 which directly or indirectly hold an effective controlling interest in one or more credit institutions may be acquired, extended or assigned;

2. The conditions for establishing networks;

3. The circumstances in which those institutions may acquire equity holdings;

4. The terms and conditions of the transactions credit institutions may carry out, and in particular their relations with their customers and rules relating to competition;

5. Organisation of common services;

6. The management rules credit institutions must comply with in order to guarantee their liquidity, their solvency and the balance of their financial structure, and the circumstances in which these rules are complied with on a consolidated basis, including the situation of an institution whose parent company's registered office is not in France;

7. Publication of the information intended for the relevant authorities;

8. The instruments and rules of credit, without prejudice to the missions entrusted to the European System of Central Banks by Article 105, paragraph 2, of the Founding Treaty of the European Community;

9. The rules relating to the protection of depositors referred to in Article L. 312-4;

10. The rules applicable to the accounting organisation, the control and security mechanisms in the computing area and the internal auditing procedures.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L611-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 28 II 1, 2, 3, Article 48 II 2, Official Journal of 2 August 2003)

In the event of any breach of the provisions decreed by the Minister for application of the provisions of 1 of Article L. 611-1, and without prejudice to the provisions of Article L. 233-14 of the Commercial Code, the Public Prosecutor, the Banking Commission or the Credit institutions and Investment Companies Committee or any shareholder may ask the judge to suspend the exercise of the voting rights attached to the shares or membership shares of credit institutions or financial institutions which are irregularly held, either directly or indirectly, until the situation is regularised.

Article L611-3

(Act No. 2003-706 of 1 August 2003 Art. 28 II 1, 4, Art. 48 II 2 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 78 Official Journal of 7 May 2005)

The Minister for the Economy determines, after consulting the Financial Markets Authority and the Advisory Committee for Financial Legislation and Regulations, and without prejudice to the duties performed by the Financial Markets Authority in regard to the portfolio management companies referred to in Article L. 532-9, the regulations applicable to the investment service providers described in Article L. 531-1 and, as applicable, the non-investment-service-provider members of the regulated markets, legal entities having as their primary or sole activity the clearing of financial instruments and legal entities having as their primary or sole activity the custody and administration of financial instruments, and in relation to:

1. The amount of the capital required, consistent with the services that the investment service provider intends to provide;

2. The rules referred to in 5, 6, 7 and 10 and, if applicable, 8, of Article L. 611-1.

Article L611-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 28 II 1, Article 46 VI 1, Article 48 II 2, Official Journal of 2 August 2003)

The Minister for the Economy also determines:

1. The conditions under which investment firms may carry out the transactions referred to in 2 of Article L. 321-2;

2. The conditions under which investment firms other than portfolio management companies may carry out the transactions referred to in Article L. 531-5;

3. The circumstances under which the structure of the capital of investment firms other than portfolio management companies may be altered, pursuant to Article L. 531-6.

Article L611-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 28 II 1, 5, Article 48 II 2, Official Journal of 2 August 2003)

The orders of the Minister for the Economy and the regulations of the Regulatory Committee for Accounting may differ in accordance with the legal status of the credit institutions or investment firms, the scope of their networks or the characteristics of their business.

They may, insofar as this is necessary, lay down conditions for granting exceptional and temporary individual exemptions.

Article L611-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 28 II 1, 6, Article 48 II 2, Official Journal of 2 August 2003)

Orders relating to the following are not subject to the opinion of the Advisory Committee for Financial Legislation and Regulations:

1. In regard to the mutual or cooperative banks, definition of the membership admission conditions and the resultant limitations in the scope of those institutions' activities;

2. Definition of the remits of the specialised financial institutions, the Caisses d'épargne et de prévoyance and the municipal credit banks;

3. The principles applicable to banking transactions accompanied by Government aid;

4. The rules applicable to investment services provided by investment firms and credit institutions.

Article L612-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Credit institutions and Investment Companies Committee is responsible for making the decisions or granting the individual authorisations or exemptions provided for by the laws and regulations applicable to credit institutions and investment firms, with the exception of those within the purview of the Banking Commission.

Article L612-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 26, Official Journal of 2 August 2003)

The Credit institutions and Investment Companies Committee establishes and updates the list of credit institutions and the list of investment service providers practising in France, specifying the type of business carried out in the latter case. The said lists are published in the Official Journal of the French Republic.

The Credit institutions and Investment Companies Committee sends the list of investment service providers who provide investment services in other European Community Member States under freedom of establishment or freedom to provide services to the competent authorities of each of those other States.

The Credit institutions and Investment Companies Committee receives the information given by the competent authorities of those other Member States on the investment service providers who provide investment services in France under freedom of establishment or freedom to provide services pursuant to the provisions of the present Code.

The Credit institutions and Investment Companies Committee sends all those lists to the Financial Markets Authority without delay.

Article L612-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 23, Article 46 III 27, V 1, Official Journal of 2 August 2003)

The Credit institutions and Investment Companies Committee is chaired by the Governor of the Bank of France, as chairman of the Banking Commission, or his representative on that Committee. It also includes the Director of the Treasury or his representative, the chairman of the Financial Markets Authority or his representative, the chairman of the Executive Board of the guarantee fund referred to in Articles L. 312-4 to L. 312-18, or a member of the Executive Board representing him, as well as eight members or their deputies, appointed by order of the Minister for the Economy for a term of three years, that is to say: a Councillor of State, A council member of the Court of Cassation, two representatives of the French Association of Credit institutions and Investment Companies holding or having held management functions, one for the credit institutions and one for the investment firms, two trade-union representatives that represent the staff of the companies or institutions subject to authorisation from the Committee and two persons chosen on account of their expertise.

The trade-union representatives and their deputies are given sufficient time to ensure that they can prepare for, travel to and participate in the meetings. That time is treated as effective working time for the calculation of social-security benefit entitlement. The employees concerned must inform their employer of their appointment, and of each meeting as soon as they receive the notice to attend.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

SECTION III
Working Rules — Articles L612-4 to L612-7

Article L612-4
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 22, Official Journal of 16 May 2001)

In the event of there being a hung vote, the chairman has a casting vote.

In an emergency declared by its chairman, the Committee may give a ruling on a proposal for a decision via a written consultation.

The committee may delegate to its chairman the power to make decisions or to grant individual authorisations or exemptions. In relation to authorisation, withdrawal of authorisation or a change of effective control of a member institution, however, authority may be delegated only for actions submitted to the Committee within the scope of the provisions laid down in the last paragraph of Article L. 511-31 and in Article L. 613-25.

A Conseil d'Etat decree specifies the present article's implementing legislation, including the majority and quorum rules which govern the Committee's deliberations, and the terms of the written consultation referred to in the second paragraph.

The Committee determines its internal regulations, which are published in the Official Journal. That text determines the procedures for preparing and examining the matters brought before the Committee for deliberation, including the circumstances in which it may hear any interested party who might inform its decision-making.

Article L612-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Director of the Treasury may request an adjournment of any decision of the committee. In which case, the chairman arranges a second deliberation in due course.

Article L612-6
(Act No. 2001-420 of 15 May 2001 Art. 21 Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 73 3 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 10 Official Journal of 16 November 2004)

Whoever participates, or has participated, in the deliberations or activities of the Credit Institutions and Investment Firms Committee is bound by professional secrecy. Such secrecy cannot be invoked either against the judicial authorities acting within the scope of judicial liquidation proceedings instituted in regard to a credit institution, an investment firm or a financial holding company, or in connection with criminal proceedings.

Such secrecy cannot be invoked against an administrative court to which a dispute has been referred in relation to the business of the Credit Institutions and Investment Firms Committee.

Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to natural persons or legal entities, the Credit Institutions and Investment Firms Committee may send information to the authorities in other States which are responsible for the approval or supervision of credit institutions, investment firms, financial institutions and insurers, subject to reciprocity and on condition that those authorities are themselves subject to professional secrecy as rigorous as that required in France. When such authorities are those of an EU Member State or another European Economic Area Member State, they are deemed to meet these conditions. The Commission of the European Communities may also receive such information, insofar as this is necessary to carry out the missions entrusted to it, and provided that the recipients are subject to professional secrecy as rigorous as that required in France.

Notwithstanding the laws and regulations governing professional secrecy, the Credit Institutions and Investment Firms Committee may, with the prior consent of the natural persons or legal entities from whom it has received documents to assist preparation of the case which concerns them, communicate some of the said documents to any interested natural person or legal entity who so requests.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L612-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The decisions of the Credit institutions and Investment Companies Committee must be grounded.

CHAPTER III
The Banking Commission — Articles L613-1 to L613-34

SECTION I
Missions — Articles L613-1 to L613-2

Article L613-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Banking Commission is responsible for monitoring the credit institutions' compliance with the laws and regulations applicable to them and for penalising any breaches found.

It examines their operating conditions and watches over the quality of their financial situation.

It ensures compliance with the profession's rules of good conduct.

It proposes and requests implementation of the Deposit Guarantee Fund as determined in Articles L. 312-5 and L. 613-34.

Article L613-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 41 V, Article 46 V 1, Official Journal of 2 August 2003)

The Banking Commission also monitors compliance with the laws and regulations determined by the present Code and those which expressly require its supervision for investment service providers other than portfolio management companies, members of the regulated markets and members of the clearing houses, as well as persons authorised to exercise custody or administration of financial instruments. It penalises any breaches found as determined in Article L. 613-21.

It examines their operating conditions and watches over the quality of their financial situation.

This monitoring is carried out without prejudice to the competence of the Financial Markets Authority in regard to its monitoring of the rules of good conduct.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

SECTION II
Composition — Article L613-3

Article L613-3

(Act No. 2003-706 of 1 August 2003 Art. 34 Official Journal of 2 August 2003)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

The Banking Commission is composed of the Governor of the Bank of France or his representative, as chairman, the Director of the Treasury or his representative, the chairman of the Insurance and Mutual Societies Supervisory Authority or his representative, and four members or their deputies appointed as follows by order of the Minister for the Economy for a term of five years, renewable once:

1. A Councillor of State proposed by the vice-chairman of the Conseil d'Etat;
2. A council member of the Court of Cassation proposed by the executive chairman of the Court of Cassation;
3. Two members chosen on account of their expertise in the banking and financial spheres.

The Banking Commission and the Insurance and Mutual Societies Supervisory Authority meet jointly at least twice each year, and whenever necessary to discuss subjects of common interest.

SECTION III
Working Rules — Articles L613-4 to L613-5

Article L613-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Banking Commission deliberates validly when an absolute majority of its members are present or represented. Other than in an emergency, it deliberates validly as an administrative court only when all of its members are present or represented.

Article L613-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the event of there being a hung vote, the chairman has a casting vote.

SECTION IV
Exercise of Control — Articles L613-6 to L613-20

Article L613-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When so instructed by the Banking Commission, the General Secretariat of the Banking Commission carries out on-the-spot document inspections. The commission periodically discusses the on-the-spot inspections schedule.

Article L613-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Bank of France makes human and other resources available to the General Secretariat of the Banking

Commission, as determined in an agreement, to carry out the inspections referred to in the previous Article.

Moreover, the General Secretariat of the Banking Commission may call upon any competent person to carry out those inspections under agreements executed to that effect.

Article L613-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Banking Commission determines the list, model and submission schedule for the documents and information which must be submitted to it.

It may, moreover, request from the persons subject to its supervision pursuant to Articles L. 613-1, L. 613-2 and L. 613-10 any information, document, clarification or justification which is necessary for the accomplishment of its mission.

It may request sight of auditors' reports and, more generally, any accounting records, which it might require, and request certification thereof, as well as any other relevant information.

Article L613-9

(Order No. 2005-1126 of 8 September 2005 Art. 22 Official Journal of 9 September 2005)

I. - The Banking Commission may ask the auditors of persons subject to its supervision pursuant to Articles L. 613-1 and L. 613-2 and of those indicated in 4 of Article L. 511-21 for any information concerning the business and financial situation of the entity that they audit and the work they have carried out within the scope of that assignment.

The Banking Commission may also send the auditors of the persons referred to in the previous paragraph, and of the undertakings for collective investment in transferable securities and the management companies referred to in Article L. 214-25, the information they require to fulfil their assignment.

The information thus provided is covered by the rule of professional secrecy.

The Banking Commission may also send written observations to the auditors, who are then required to provide written answers.

II. - The auditors are required to inform the Banking Commission as soon as possible of any fact or decision concerning the persons referred to in the first paragraph of I of the present article which they have become aware of in the performance of their duties and which could:

1. Constitute a breach of the laws or regulations applicable to them and have significant effects on their financial situation, profits or assets;

2. Jeopardise continued exploitation;

3. Give rise to the issuing of reservations or a refusal to certify the accounts.

The same obligation applies to any facts and decisions as indicated above which the auditors might become aware of in the performance of their duties in relation to a parent company or subsidiary of an institution or company.

When the auditors perform their duties in a credit institution affiliated to one of the central bodies referred to in Article L. 511-30, the facts and decisions referred to in the previous paragraphs are simultaneously sent to that central body and to the Banking Commission.

The auditors referred to in the first paragraph of I of the present article are released from professional secrecy in regard to the Banking Commission and, if applicable, the central bodies referred to in Article L. 511-30, for the obligations enumerated above, and shall not incur liability in respect of information or facts they disclose in fulfilment of those same obligations.

If it has knowledge of a breach of the provisions of the present code committed by an auditor of a person referred to in the first paragraph of I of the present article, or if it considers that the conditions of independence necessary for the proper conduct of that auditor's assignment are not met, the Banking Commission may ask the competent court to relieve him of his duties as provided for in Article L. 823-7 of the Commercial Code.

The Banking Commission may also report the offence to the relevant disciplinary authority, to which end the Banking Commission may provide any information which that authority might require.

Article L613-10

(Order No. 2004-1201 of 12 November 2004 Art. 11 Official Journal of 16 November 2004)

The on-the-spot inspections may be extended to the subsidiaries of a credit institution or an investment firm. They may also be extended to legal entities which directly or indirectly control a credit institution or an investment firm within the meaning of Article L. 233-3 of the Commercial Code, to the subsidiaries of those legal entities and to any other business or legal entity belonging to the same group.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L613-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The results of the on-the-spot inspections are sent to the inspected legal entity's Board of Directors or Executive Board, and to its Supervisory Board or corresponding deliberative body. They are also sent to the auditors.

When the Banking Commission decides to conduct an on-the-spot inspection in an institution which is affiliated to a central body, it informs that institution thereof.

It sends the results of that inspection to the central body.

Article L613-12

(Order No. 2004-1201 of 12 November 2004 Art. 11 Official Journal of 16 November 2004)

When the authorities of a European Economic Area Member State competent to supervise a credit institution or an

investment firm wish, in specific cases, to verify information relating to a legal entity referred to in Article L. 613-10 whose registered office is located in France, the Banking Commission must, notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural persons or legal entities, respond to their request either by performing the checks itself, or by allowing representatives of those authorities to perform them. When they do not perform the checks themselves, the proper authorities which have submitted such a request may, if they so wish, participate therein.

The Banking Commission's on-the-spot inspections may be extended to the legal entities referred to in Article L. 613-10 whose registered office is located in another European Economic Area Member State. The commission asks the proper authorities of the other European Economic Area Member State to carry out those inspections. With the permission of those authorities, it may appoint representatives to carry out the inspections. When it does not perform the checks itself, the Banking Commission may, if it so wishes, participate therein.

To ensure monitoring of an establishment subject to its supervision, the Banking Commission may require that its branches in another European Economic Area Member State provide it with all information pertinent to such monitoring and, after informing the authority within that State which is tasked with the supervision of credit institutions and investment firms, to arrange for its representatives to carry out an on-the-spot inspections of that establishment's branches.

Notwithstanding the provisions of the aforementioned Act No. 68-678 of 26 July 1968, the Banking Commission may, moreover, exchange any information with the authorities of the European Economic Area Member States responsible for the supervision of credit institutions, investment firms, other financial entities and insurance companies which is relevant to their own inspections.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L613-13

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Notwithstanding the provisions of the aforementioned Act No. 68-678 of 26 July 1968, the Banking Commission may enter into bilateral agreements with the authorities of a State which is not a European Economic Area Member State which perform a role similar to that entrusted to the Banking Commission in France, provided that those authorities are themselves subject to professional secrecy, relating to one or more of the following:

1. The extension of on-the-spot inspections to the foreign branches or subsidiaries of a credit institution, investment firm or a financial holding company governed by French law;

2. The carrying out by the Banking Commission, at the request of those foreign authorities, of on-the-spot inspections in institutions subject to its supervision in France which are branches or subsidiaries of institutions subject to the supervision of those authorities. Such inspections may be carried out jointly with those foreign authorities;

3. Defining the conditions under which the Banking Commission may send, receive or exchange information pertaining to the exercise of its powers and those of the foreign authorities responsible for supervising credit institutions, investment firms, other financial institutions, insurance companies or financial markets.

Article L613-14

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 46 III 28, Official Journal of 2 August 2003)

Inspections carried out within the scope of Articles L. 613-12 and L. 613-13 by representatives of a foreign authority authorised to supervise credit institutions must relate exclusively to compliance with the prudential management rules of the State concerned in order to enable the financial situation of banking or financial groups to be monitored. They must be the subject of a report to the Banking Commission, which is the only authority empowered to impose sanctions on the subsidiary or branch inspected in France.

To enable the inspections referred to in Articles L. 613-12 and L. 613-13 to be carried out, and notwithstanding the provisions of the aforementioned Act No. 68-678 of 26 July 1968, persons who participate in the administration or management of the credit institutions referred to in the previous paragraph, or who are employed by it, must respond to the requests of the representatives of the foreign banking supervisory authorities and cannot raise professional secrecy in relation thereto.

Assistance requested from the Banking Commission by a foreign authority is refused if acceding to the request would be likely to jeopardize French sovereignty, security or essential interests, or affect public order, or if criminal proceedings have already been instituted in France on the basis of the same facts and against the same persons, or if those persons have already been penalised by a final decision for the same facts.

Without prejudice to the powers of the Financial Markets Authority, the provisions of the present article and of Articles L. 613-12 and L. 613-13 apply to investment firms and the investment departments of credit institutions.

Article L613-15

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

When a credit institution fails to comply with the profession's rules of good conduct, the Banking Commission, having invited its executives to present their explanations, may send it a warning.

Article L613-16

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Banking Commission may recommend that the credit institutions and other persons referred to in Article L.

613-2 take appropriate measures to restore or bolster their financial situation, improve their management methods or ensure that their organisation is suitable for their business or their development plans. The institution concerned is required to reply within two months, giving details of the measures taken in response to those recommendations.

Independently of the provisions of the previous paragraph, the Banking Commission may enjoin any credit institution, company or other person subject to its supervision pursuant to Article L. 613-2 to take all measures necessary to restore or bolster its financial situation, improve its management methods or ensure that its organisation is suitable for its business or its development plans within a given time limit.

Article L613-17

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The warnings and injunctions that the Banking Commission sends to a credit institution affiliated to a central body are also sent that central body.

Article L613-18

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 75 1, Official Journal of 2 August 2003)

The Banking Commission may appoint a provisional administrator to a credit institution or other person referred to in the first paragraph of Article L. 613-2, to whom full powers relating to the legal entity's administration, management and representation are transferred.

That appointment is made either at the request of the executives, if they consider that they are no longer able to exercise their functions normally, or at the initiative of the Commission, if the management of the institution or company can no longer be carried out in normal conditions, or if a penalty referred to in 4 and 5 of I of Article L. 613-21 has been imposed.

If the situation gives grounds for fearing that the institution or company might ultimately be unable to pay the provisional administrator's fees, the Deposit Guarantee Fund may, on a proposal from the Banking Commission, decide to guarantee payment thereof. The corresponding charge is applied to the securities guarantee mechanism for the persons referred to in the first paragraph of Article L. 613-2 other than the credit institutions. It is applied to the surety guarantee fund for the institutions for which that mechanism is implemented. In the event of a joint implementation, the charge is applied in equal measure to the different guarantee mechanisms implemented.

Article L613-19

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In the case of a credit institution which is affiliated to a central body, the central body may request the Banking Commission to appoint a provisional administrator to the credit institution affiliated to it.

Article L613-20

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 18, Official Journal of 16 May 2001)

I. - Whoever participates or has participated in the supervision of the persons referred to in Articles L. 613-1, L. 613-2 and L. 613-10, as determined in the present Chapter, is bound by professional secrecy. Such secrecy cannot be invoked against the judicial authorities acting within the scope of judicial liquidation proceedings instituted in regard to a credit institution, an investment firm or a financial holding company, or in connection with criminal proceedings.

II. - Such secrecy cannot be invoked against an administrative court to which a dispute has been referred relating to the business of the Banking Commission.

Such secrecy cannot be invoked in the context of a hearing by a select committee as provided for in the fourth paragraph of II of Article 6 of Order No. 58-1100 of 17 November 1958 relating to the business of parliamentary assemblies.

III. - Notwithstanding the provisions of the aforementioned Act No. 68-678 of 26 July 1968, the Banking Commission may send information to the authorities responsible for supervising the persons referred to in I in other countries, subject to reciprocity and provided that those authorities are themselves subject to professional secrecy as rigorous as that required in France.

SECTION V
Exercise of Disciplinary Powers

Articles L613-21 to L613-24

Article L613-21

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 7 I 5, Official Journal of 16 May 2001)

I. - If a credit institution or other person referred to in the first paragraph of Article L. 613-2 has breached a legislative or regulatory provision applicable to its business, or failed to respond to a recommendation or heed a warning, or has not complied with the special conditions imposed or the undertakings given in connection with an application for authorisation or an authorisation or a derogation provided for by the laws or regulations applicable to credit institutions and investment firms, the Banking Commission may, without prejudice to the competence of the Financial Markets Council, pronounce one of the following disciplinary sanctions:

1. A warning;
2. A reprimand;

3. A prohibition on the execution of certain transactions and any other restriction on the conducting of its business;

4. The temporary suspension of one or more persons referred to in Article L. 511-13 and Article L. 532-2, with or without appointment of a provisional administrator;

5. Automatic dismissal of one or more of those same persons, with or without appointment of a provisional administrator;

6. Deletion of the credit institution or investment firm from the list of authorised credit institutions or investment firms, with or without appointment of a provisional administrator.

The same applies if the order contained in Article L. 613-16 has not been complied with.

Moreover, the Banking Commission may pronounce, either instead of, or in addition to, those sanctions, a financial penalty at least equal to the minimum capital which the legal entity sanctioned is required to maintain. The relevant sums are recovered by the Trésor public and paid to the State budget.

II. - The Banking Commission may also decide, either instead of, or in addition to, those sanctions, to prohibit or limit the distribution of a dividend to the shareholders, or a return to the holders of membership shares, of the persons referred to in I.

When it imposes one of the disciplinary sanctions enumerated above on an investment service provider, the Banking Commission informs the Financial Markets Council thereof.

III. - The Banking Commission may decide to publish details of the sanctions imposed in the context of the present article at the expense of the legal entity sanctioned and in the journals or other publications which the Commission designates.

Article L613-22

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 75 2, Official Journal of 2 August 2003)

If a credit institution or other person referred to in the first paragraph of Article L. 613-2 has been deleted from the list or if a company is unlawfully engaged in the activity described in Articles L. 311-1 and L. 511-1 or breaches one of the prohibitions indicated in Article L. 511-5, the Banking Commission may appoint liquidator, to whom full powers relating to the administration, management and representation of the legal entity are transferred.

If the situation gives grounds for fearing that the institution or company might ultimately be unable to pay the liquidator's fees, the Deposit Guarantee Fund may, as provided for in Article L. 613-18, decide to guarantee payment thereof.

Article L613-23

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

I. - When the Banking Commission rules pursuant to Article L. 613-21, it enjoys administrative court status.

II. - When a special emergency warrants it, the Commission may provisionally order the measures provided for in Articles L. 613-18 and L. 613-22 without an adversary procedure.

The measures referred to in the previous paragraph are lifted or confirmed by the Commission, following an adversary procedure, within a time limit determined in a Conseil d'Etat decree.

Article L613-24

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

For application of the provisions of Articles L. 571-3 to L. 571-11 and L. 571-14 to L. 571-16, the Banking Commission may take civil action at any stage of the criminal proceedings.

SECTION VI

Judicial Reorganisation and Liquidation of Credit Institutions and Investment Firms — Articles L613-25 to L613-31-10

Subsection 1

Measures specific to the Judicial Reorganisation and Liquidation of Credit Institutions and Investment Firms — Articles L613-25 to L613-31

Article L613-25

(Order No. 2004-1127 of 21 October 2004 Art. 1 Official Journal of 22 October 2004)

When a provisional administrator or a liquidator has been appointed to a credit institution pursuant to Articles L. 613-18 and L. 613-22, the Banking Commission may, having obtained the opinion of the guarantee fund pursuant to Article L. 312-5, refer the matter to the tribunal de grande instance to enable it, if it considers that the depositors' interests warrant it, to order the transfer of the shares held by one or more of that institution's de facto and de jure executives, salaried or otherwise. The transfer price is determined on the basis of a court-ordered appraisal. The shares are valued in accordance with the methods used in the event of a transfer of assets, applying the appropriate weightings to each case, consistent with the value of the assets, the profits achieved, the existence of any subsidiaries and the commercial prospects, and, for companies whose securities are admitted to trading on a regulated market, the market value. The procedure takes place via assignation to the shareholders concerned. The competent tribunal de grande instance is the one having jurisdiction at the place where the credit institution's registered office is located.

In the same circumstances, the tribunal de grande instance may decide that the voting right attached to shares or voting right certificates held by one or more de facto and de jure executives, salaried or otherwise, shall be exercised, for a period which it determines, by a court officer designated for that purpose.

In the same circumstances, the tribunal de grande instance may also order the assignment of all of the institution's shares, or of the shares and membership shares which have not been assigned pursuant to the provisions of the first paragraph of the present article. When the shares are admitted to trading on a regulated market, the assignment arrangements are determined by the General Regulations of the Financial Markets Authority.

The amount of the compensation due to unidentified holders is consigned.

Article L613-26

(Order No. 2004-1127 of 21 October 2004 Art. 1 Official Journal of 22 October 2004)

Notwithstanding the provisions of Article L. 621-1 of the Commercial Code, credit institutions which are unable to meet their current liabilities, immediately or in the near future, are deemed to be insolvent.

Judicial liquidation proceedings may be instituted against credit institutions which have been deleted from the list by order of the Banking Commission and whose liabilities towards third parties, excluding debts which are only redeemable after the unsecured creditors have been fully paid off, are effectively greater than the assets less the mandatory provisions.

Article L613-27

(Order No. 2004-1127 of 21 October 2004 Art. 1 Official Journal of 22 October 2004)

The judicial reorganisation and liquidation procedures established by Part II of Book VI of the Commercial Code cannot be initiated in relation to a credit institution or an investment firm until the Banking Commission's opinion has been obtained.

The presiding judge cannot be requested to initiate the amicable settlement procedure established by Part I of Book VI of the Commercial Code in relation to a credit institution or an investment firm until the Banking Commission's opinion has been obtained.

A Conseil d'Etat decree determines the form in which the opinions referred to in the first and second paragraphs above are given.

Article L613-28

(Order No. 2004-1127 of 21 October 2004 Art. 1 Official Journal of 22 October 2004)

When a provisional administrator has been appointed by the Banking Commission pursuant to Article L. 613-18, the court may only entrust the receiver with supervision of the management tasks referred to in 1 of II of Article L. 621-22 of the Commercial Code.

Article L613-29

(Order No. 2004-1127 of 21 October 2004 Art. 1 Official Journal of 22 October 2004)

In the event of judicial liquidation proceedings being instituted or ordered in relation to a credit institution or an investment firm, the Banking Commission appoints a liquidator who draws up an inventory of the assets and gives effect to the liquidation and the redundancies under the terms and conditions laid down in Chapter II of Part II of Book VI of the Commercial Code.

Pursuant to Articles L. 622-2 or L. 622-5 of the Commercial Code, the court-appointed liquidator performs the tasks indicated in the first two paragraphs of Article L. 622-4 or the third paragraph of Article L. 622-5 of that same code, with the exception of the inventory of the company's assets and the liquidation functions.

Article L613-30

(Order No. 2004-1127 of 21 October 2004 Art. 1 Official Journal of 22 October 2004)

In the event of judicial reorganisation or liquidation proceedings being instituted in relation to a credit institution or an investment firm, the guarantee fund is exempted from making the declaration referred to in Article L. 621-43 of the Commercial Code, as are the depositors in respect of their debts which come wholly or partly within the scope of the fund.

The fund informs the depositors of the amount of the debts excluded from the scope of the fund and specifies the arrangements for declaring the said debts to the creditors' representative.

The creditors' representative draws up the statements of all the debts. The said statements must be duly noted by the bankruptcy judge, filed with the Commercial Court registry and published. In the event of them being challenged, the claimant must bring the matter before the court within two months of publication, under pain of extinction.

A Conseil d'Etat decree determines the present article's implementing legislation.

Article L613-31

(Order No. 2004-1127 of 21 October 2004 Art. 1 Official Journal of 22 October 2004)
(Order No. 2005-429 of 6 May 2005 Art. 79 Official Journal of 7 May 2005)

The provisions regarding the judicial reorganisation and liquidation of the credit institutions and investment firms referred to in Articles L. 613-25 to L. 613-30 and L. 211-6 do not apply to court proceedings instituted before 29 June 1999.

Subsection 2
Measures to Reorganise and Liquidate Community Credit Institutions — Articles L613-31-1 to L613-31-10

Article L613-31-1

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

The present subsection applies to the reorganisation measures and liquidation procedures for credit institutions and their branches established in a European Community Member State other than that in which their registered office is located. The European Economic Area Member States are treated as Member States of the European Community.

It also applies to the branches of a credit institution having its registered office outside the European Economic Area, provided that it has branches established in at least two Member States.

Article L613-31-2

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

I. - The reorganisation measures referred to in the present subsection are those taken by the administrative or judicial authorities in France or any other Member State in order to maintain or restore the financial situation of a credit institution and which affect the pre-existing rights of third parties.

The measures taken in France which affect such rights are:

1 Those referred to in 3 of I of Article L. 613-21;

2 The amicable settlement procedure referred to in Part I of Book VI of the Commercial Code when temporary suspension of the proceedings has been pronounced;

3 The judicial reorganisation procedure referred to in Part II of Book VI of the Commercial Code.

II. - The liquidation measures referred to in the present subsection are collective procedures initiated and overseen by the administrative or judicial authorities in France or any other Member State to realise assets under the supervision of those authorities.

When they are taken in France, these measures are those covered by Chapter II of Part II of Book VI of the Commercial Code.

Article L613-31-3

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

Without prejudice to the provisions of Articles L. 613-31-5 and L. 613-31-6:

1 The reorganisation and liquidation measures decided by the proper authorities of a Member State other than France in relation to a credit institution having its registered office in that State produce all their effects in Metropolitan France and the Overseas Departments without any other formality, including effects relative to third parties, as soon as they produce their effects in that State. The same applies when such measures are taken in relation to a branch of a credit institution having its registered office outside the European Economic Area;

2 When they are taken by the proper French public authority in relation to a credit institution registered in France or a branch in France of an establishment having its registered office outside the European Economic Area, these measures produce all their effects in the other Member States, including effects relative to third parties located in other Member States.

Article L613-31-4

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

The initiation of judicial liquidation proceedings against a credit institution entails its deregistration as a credit institution.

Article L613-31-5

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

Notwithstanding the provisions of Article L. 613-31-3, the effects of a reorganisation measure or a liquidation procedure within the meaning of Article L. 613-31-2 on the contracts, rights and proceedings enumerated below are determined by the following rules:

1 Contracts of employment and working relationships are governed solely by the law of the Member State applicable to that contract or that relationship;

2 Contracts giving entitlement to acquire or enjoy the use of real property are governed solely by the law of the Member State on whose territory that property is located. The same law also determines whether that property is movable or immovable;

3 Rights over real property, a vessel or an aircraft which is subject to registration in a public register are governed solely by the law of the Member State under whose authority the said register is maintained;

4 Clearing agreements, those relating to temporary assignment of financial instruments and those governing transactions carried out within the framework of a regulated market remain solely governed by the law applicable to those agreements;

5 Rights over financial instruments which require an entry in a register, an account or a centralised depositary system maintained or located in a Member State are governed solely by the law of that Member State;

6 Proceedings pending on the commencement date of the reorganisation measure or the liquidation procedure relating to a property or right which the credit institution has been compelled to relinquish are governed solely by the law of the Member State in which the proceedings are taking place.

Article L613-31-6

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

I. - Notwithstanding the provisions of Article L. 613-31-3, the decision to adopt a reorganisation measure or to initiate a liquidation procedure shall not affect:

1 Rights in rem, within the meaning of the applicable law, of a creditor or a third party over tangible or intangible assets, whether movable or immovable, belonging to the credit institution which is located in another Member State on

the date of the decision;

2 Vendor's rights founded on a reservation of title, when the property was in another Member State on the date of the decision;

3 The buyer's right to acquire a property sold by the credit institution, when the property was in another Member State on the date of the decision and on the date of delivery;

4 A creditor's right to call for offsetting of his debt with that of the credit institution, when the law applicable to the credit institution's debt so permits.

II. - The foregoing provisions shall not impede nullity suits, applications to set aside or unenforceability actions against deeds which are prejudicial to the creditors collectively when such actions are permitted by the law of the Member State in which the credit institution's registered office is located.

Article L613-31-7

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

Notwithstanding the provisions of Article L. 613-31-3 and of II of Article L. 613-31-6, the provisions of the law of the Member State in which a liquidation procedure is initiated in regard to a Community credit institution via nullity suits, applications to set aside or unenforceability actions against deeds which are prejudicial to the creditors collectively are not applicable if the beneficiary of such an deed can show that it is subject to the law of another Member State and that that law does not in any way allow it to be contested in the case in question.

In the case of reorganisation measures, the rule laid down in the previous paragraph only applies to deeds prejudicial to the creditors which predate the adoption of such a measure.

Article L613-31-8

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

When, in return for payment and through a deed executed after adoption of a reorganisation measure or the commencement of a liquidation procedure, the credit institution disposes of:

1 Real property;

2 A vessel or an aircraft subject to an entry in a public register;

3 Instruments or rights over instruments whose existence or transfer requires an entry in a register, an account or a centralised depositary system maintained or located in a Member State.

The validity of that deed is governed by the law of the Member State in which that real property is located or under whose authority that register, that account or that depositary system is maintained.

Article L613-31-9

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

An administrator or liquidator appointed by the proper authority of another Member State is authorised to exercise all the powers he is authorised to exercise in that State in Metropolitan France and the Overseas Departments.

In exercising those powers, the administrator or the liquidator shall comply with French law, particularly in regard to the methods used to realise assets or provide information to employees. Such powers shall not include execution measures requiring the use of force or the right to rule on a dispute or a disagreement.

The administrator or the liquidator may appoint persons responsible for assisting them or representing them, particularly in the Member States in which the credit institution's branches are located.

Article L613-31-10

(inserted by Order No. 2004-1127 of 21 October 2004 Art. 1 II Official Journal of 22 October 2004)

A Conseil d'Etat decree determines, as necessary, the implementing regulations for the present subsection and, inter alia, those relating to publication abroad of the measures referred to in Article L. 613-31-3, as well as the information sent to creditors.

SECTION VII
Specific Control System

Articles L613-32 to L613-33-1

Article L613-32

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Banking Commission ensures that financial holding companies comply with the obligations imposed by the second paragraph of Article L. 517-1.

If it appears that a financial holding company has breached the provisions of the second paragraph of Article L. 517-1, the Banking Commission may impose one of the sanctions provided for in 1 and 2 of I of Article L. 613-21 on it.

The Banking Commission may also impose, either instead of, or in addition to, those disciplinary sanctions, a financial penalty at least equal to the minimum capital which the credit institution or investment firm which is a subsidiary of the financial holding company is required to maintain. If the financial holding company holds several subsidiaries which are credit institutions or investment firms, the ceiling for the fine is determined by reference to the capital of the credit institution or the investment firm which is required to maintain the highest minimum capital.

Article L613-33

(Order No. 2005-429 of 6 May 2005 Art. 80 Official Journal of 7 May 2005)

The Banking Commission is responsible for monitoring the compliance of the institutions referred to in Articles L. 511-22 and L. 511-23 with the laws and regulations applicable to them under the terms of Article L. 511-24. It may

examine their operating conditions and the status of their financial situation, taking due account of the supervision exercised by the proper authorities referred to in 2 of Article L. 511-21.

It also monitors compliance with the banking profession's rules of good conduct.

It exercises over those institutions the supervisory and disciplinary powers described in sections 4 and 5 of the present Chapter. The deletion stipulated in 6 of I of Article L. 613-21 and in the first paragraph of Article L. 312-5 effectively constitutes a prohibition on the institution continuing to provide banking services in France.

When an institution referred to in Articles L. 511-22 and L. 511-23 loses its approval or is the subject of a liquidation procedure, or if, in the case of a financial institution, it no longer meets the required conditions within the meaning of Article L. 511-23, the Banking Commission takes the necessary measures to prevent it from commencing new activities in the France and to ensure that the depositors' interests are protected.

A Conseil d'Etat decree determines the procedures the Banking Commission follows when exercising the responsibilities and powers conferred on it by the previous paragraphs. It determines, inter alia, the arrangements for informing the proper authorities referred to in Article L. 511-21.

Article L613-33-1

(inserted by Order No. 2001-1168 of 11 December 2001 Article 27 13, Official Journal of 12 December 2001)

For application of the provisions of Article L. 613-2 to members of a clearing house established in France who are established outside of France, the Banking Commission takes account of the supervision exercised by the competent authorities of each State concerned and, to that effect, may enter into a bilateral agreement with them, as provided for in Article L. 613-13.

For the exercising of its disciplinary powers, the deletion provided for in 6 of I of Article L. 613-21 and in the first paragraph of Article L. 312-5 effectively constitutes a prohibition on the institution's continued membership of a clearing house established in France.

Article L613-34

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Banking Commission consults the Executive Board chairman of the Deposit Guarantee Fund on any question regarding an institution for which it intends to implement the guarantee or intends to propose a precautionary intervention by the fund.

The Executive Board chairman may also address the Banking Commission at his request.

Article L614-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 22 I, II, Article 48 II 3, Official Journal of 2 August 2003)

The Financial Sector Consultative Committee is responsible for examining questions relating to the relations between the credit institutions, investment firms and insurance companies on the one hand, and their respective customers on the other, and for proposing any appropriate measures in relation thereto, particularly in the form of opinions or recommendations of a general nature.

Questions may be referred to the Committee by the Minister for the Economy, by the organisations which represent clients and by the professional organisations from which its members are drawn. It may also act on its own initiative at the request of a majority of its members.

The committee is composed majoritarily, and in equal numbers, of representatives of the credit institutions, the investment firms, the insurance companies, the general agents and insurance brokers on the one hand, and of customers' representatives on the other.

The composition of the Committee, the conditions of appointment of its members and its chairman, and its organisational and operational rules, are determined by decree.

Article L614-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 22 I, Article 26 I, Article 48 II 3, Official Journal of 2 August 2003)

Matters may be referred to the Advisory Committee for Financial Legislation and Regulations by the Minister for the Economy for any Government bill or order and any proposed Community regulation or directive, before it is examined by the Council of the European Communities, which relates to the insurance sector, the banking sector or investment firms, excluding texts pertaining to the Financial Markets Authority or falling within its jurisdiction.

Draft decrees or orders, other than individual measures, relating to the same areas may only be adopted after the opinion of the Advisory Committee for Financial Legislation and Regulations has been obtained. An unfavourable

opinion of the Committee on such a draft cannot be disregarded until the Minister for the Economy has requested a second deliberation by that committee.

The composition of the Committee, the conditions of appointment of its members and its chairman, and its organisational and operational rules, are determined by decree.

Article L614-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 22 I, Article 27 I, Article 48 II 3, Official Journal of 2 August 2003)

Employees who are members of the Financial Sector Consultative Committee or the Advisory Committee for Financial Legislation and Regulations are given sufficient time to ensure that they can prepare for, travel to and participate in the meetings. That time is treated as effective working time for the calculation of social-security benefit entitlement. The employees concerned must inform their employer of their appointment, and of each meeting as soon as they receive the notice to attend.

Article L614-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The Public and Semi-Public Financial Sector Council is an institution composed of the members of the Public Sector Council and five persons chosen for their expertise in regard to financial institutions and credit who are entrusted with a public-interest mission.

It examines any question relating to the public financial sector's role, coordination and conditions of intervention, primarily the financing of general-interest activities and the non-market sector, the financing of employment and training, and the fight against financial exclusion.

It may issue opinions and commission the studies it considers necessary. It makes its proposals in a report published every two years, which it presents to Parliament.

A decree determines the present article's implementing regulations.

Single Chapter: The Financial Markets Authority

Article L621-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 2, Official Journal of 2 August 2003)

The Financial Markets Authority, an independent public authority having legal personality, deals with protection of the savings invested in financial instruments and all other investments which give rise to public offerings, the information provided to investors, and the proper functioning of the financial instruments markets. It lends its support to the regulation of those markets at a European and an international level.

Article L621-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 24, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 3, Official Journal of 2 August 2003)

I. - The Financial Markets Authority consists of a college, a disciplinary committee and, when required, specialist committees and consultative committees.

Except as otherwise herein provided, the functions entrusted to the Financial Markets Authority are exercised by the college.

II. - The college is composed of sixteen members:

1 A chairman, appointed by decree;

2 A Councillor of State appointed by the vice-chairman of the Council of State;

3 A council member of the Court of Cassation appointed by the president of the Court of Cassation;

4 A Chief Advisor to the Court of Auditors appointed by the president of the Court of Auditors;

5 A representative of the Bank of France appointed by the Governor;

6 The chairman of the National Accountancy Council;

7 Three members appointed respectively by the President of the Senate, the President of the National Assembly

and the President of the Economic and Social Council on account of their financial and legal expertise and their experience in the fields of public offerings and the investment of savings in financial instruments;

8 Six members appointed by the Minister for the Economy on account of their financial and legal expertise and their experience in the fields of public offerings and the investment of savings in financial instruments, after consulting the organisations which represent the industrial and commercial companies whose securities are the subject of public offerings, the management companies of undertakings for collective investment and other investors, investment service providers, market undertakings, clearing houses, managers of settlement-delivery systems and central custodians;

9 A shareholder-employees' representative appointed by the Minister for the Economy after consulting the representative trade unions.

The chairman of the Financial Markets Authority is empowered to act on its behalf before any jurisdiction.

The chairman of the Financial Markets Authority is subject to the rules of disqualification applicable to public office.

The chairman's term of office is of five years' duration with effect from his appointment. It is not renewable.

The term of office of the other Members, with the exception of those referred to in 5 and 6, is of five years' duration. It is renewable once. After expiry of the five-year period, the members remain in post until the first meeting of the reconstituted college takes place.

In the event of a college member's seat, other than the chairman's, becoming vacant for whatever reason, it is filled for the unexpired portion of the former member's term of office. A term of office of less than two years is not taken into account for application of the renewal rule laid down in the previous paragraph.

Pursuant to terms set forth in a Conseil d'Etat decree, the college is renewed by half every thirty months. The term of office is calculated from the date of the first meeting of the college.

III. - As determined in a Conseil d'Etat decree, the college may delegate authority to make decisions of individual scope to specialist committees composed of its members and chaired by the chairman of the Financial Markets Authority.

The college may also constitute consultative committees and appoint experts thereto, if necessary, to prepare its decisions.

IV. - The Financial Markets Authority comprises a disciplinary committee responsible for imposing the sanctions referred to in Articles L. 621-15 and L. 621-17.

That disciplinary committee has twelve members:

1 Two Councillors of State appointed by the vice-chairman of the Council of State;

2 Two council members of the Court of Cassation appointed by the president of the Court of Cassation;

3 Six members appointed by the Minister for the Economy on account of their financial and legal expertise and their experience in the fields of public offerings and the investment of savings in financial instruments, after consulting the organisations which represent the industrial and commercial companies whose securities are the subject of public offerings, the management companies of undertakings for collective investment and other investors, investment service providers, market undertakings, clearing houses, managers of settlement-delivery systems and central custodians;

4 Two representatives of the employees of the investment service providers, the management companies of undertakings for collective investment, the market undertakings, the clearing houses, the managers of settlement-delivery systems and the central custodians, appointed by the Minister for the Economy after consulting the representative trade unions.

The chairman is elected by the members of the disciplinary committee from among the persons referred to in 1 and 2.

The disciplinary committee may constitute sections of six members, chaired by one of the persons referred to in 1 and 2.

The functions of a member of the disciplinary committee are incompatible with those of a member of the college.

The duration of the term of office of the members of the disciplinary committee is five years. It is renewable once. After expiry of the five-year period, the members remain in post until the first meeting of the reconstituted committee takes place.

In the event of a disciplinary committee member's seat becoming vacant for whatever reason, it is filled for the unexpired portion of the former member's term of office. A term of office of less than two years is not taken into account for application of the renewal rule laid down in the previous paragraph.

Pursuant to terms set forth in a Conseil d'Etat decree, half the disciplinary committee members are replaced every thirty months. The term of office runs from the date of the first committee meeting.

V. - The employees appointed as members of the Financial Markets Authority are given sufficient time to ensure that they can prepare for, travel to and participate in the meetings. That time is treated as effective working time for the calculation of social-security benefit entitlement. The employees concerned must inform their employer of their appointment, and of each meeting as soon as they receive the notice to attend.

SECTION III
Working Rules

Articles L621-3 to L621-5-4

Article L621-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 4, Official Journal of 2 August 2003)

I. - The Government Representative to the Financial Markets Authority is appointed by the Minister for the

Economy. He attends all meetings of the deliberative structures without the right of discussion and vote. The decisions of the disciplinary committee are taken in his absence. He may, other than in relation to sanctions, request a second deliberation as determined in a Conseil d'Etat decree.

II. - The decisions of each deliberative structure of the Financial Markets Authority are taken on a majority of the votes cast. In the event of there being a hung vote, other than in relation to sanctions, the chairman has a casting vote.

In the event of an emergency duly declared by its chairman, the college may, other than in relation to sanctions, deliberate by means of written consultation.

A Conseil d'Etat decree determines the rules applicable to the proceedings of the Financial Markets Authority's deliberative structures.

The General Regulations of the Financial Markets Authority determine their own terms of implementation.

Article L621-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, art 5, Official Journal of 2 August 2003)

I. - Any member of the Financial Markets Authority must inform the chairman:

1 Of the interests he held during the two years preceding his appointment, and those he currently holds or comes to hold;

2 Of the economic or financial functions he performed during the two years preceding his appointment and those he currently performs or comes to perform;

3 Of any remit within a legal entity he held during the two years preceding his appointment and those he currently holds or comes to hold;

This information, and that concerning the chairman, are made available to the members of the Financial Markets Authority.

No member of the Financial Markets Authority may deliberate on a matter in which he himself or, if applicable, a legal entity in which he performed functions or held a remit during the two years preceding the deliberation has an interest, or had one during the same period. Nor may he participate in a deliberation concerning a matter in which he himself or, if applicable, a legal entity in which he performed functions or held a remit during the two years preceding the deliberation, represented one of the parties involved during the same period.

The chairman of the Financial Markets Authority takes the appropriate measures to ensure compliance with the obligations and prohibitions deriving from the present indent I.

The General Regulations of the Financial Markets Authority determine the procedures for preventing conflicts of interest.

II. - The members, staff and employees of the Financial Markets Authority and the experts appointed to the consultative committees referred to in III of Article L. 621-2 are bound by professional secrecy under the conditions and subject to the penalties provided for in Article L. 642-1.

Such secrecy cannot be invoked against the judicial authorities acting within the scope of criminal proceedings or in connection with judicial liquidation proceedings instituted against persons referred to in II of Article L. 621-9.

III. - The provisions of Act No. 47-1635 of 30 August 1947 relating to the cleaning up of the commercial and industrial occupations are applicable to members of the Financial Markets Authority. No person who has been penalised under the provisions of the present Code during the previous five years may be a member of the Financial Markets Authority.

Article L621-5

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-420 of 15 May 2001 Article 26, Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 6, Official Journal of 2 August 2003)

A Conseil d'Etat decree determines the conditions and limits within which:

1 The college may delegate authority to its chairman or, in the event of his absence or impediment, to another of its members, to make decisions of an individual nature which fall within its jurisdiction;

2 The college may delegate authority to a specialist commission pursuant to III of Article L. 621-2;

3 The chairman of the Financial Markets Authority may delegate his signature in matters in which the laws or regulations grant him specific competence.

Article L621-5-1

(inserted by Order No. 2003-706 of 1 August 2003 Article 7 I, Official Journal of 2 August 2003)

The Financial Markets Authority has departments managed by a secretary general. To fill such a post, the chairman of the authority submits a proposal to the college which deliberates thereon and formulates an opinion within one month. When that time limit has expired, the secretary general is appointed by the chairman. That appointment is subject to the approval of the Minister for the Economy. Until such time as the secretary general is appointed, his functions may be performed by a person appointed by the chairman of the Financial Markets Authority.

The staff of the Financial Markets Authority's departments is composed of public-law contractual agents and private-law employees. As determined in a Conseil d'Etat decree, public agents may be attached to the Financial Markets Authority in a position provided for in the rules which govern them.

The provisions of Articles L. 412-1, L. 421-1, L. 431-1 and L. 236-1 of the Labour Code apply to the staff of the Financial Markets Authority's departments. Those provisions may be subject to amendments deriving from Conseil d'Etat decrees, however.

On a proposal from the secretary general, the college determines the internal regulations and ethical rules applicable to the staff of the Financial Markets Authority's departments, and establishes the general framework for remuneration. The secretary general reports to the college concerning the management of the departments, as determined by the latter.

Article L621-5-2

(inserted by Order No. 2003-706 of 1 August 2003 Article 7 I, Official Journal of 2 August 2003)

The Financial Markets Authority has financial autonomy. Its budget is decided by the college on a proposal from the secretary general. The provisions of the Act of 10 August 1922 relating to the organisation of cost control do not apply to it.

It receives the income from the taxes established in Article L. 621-5-3.

A Conseil d'Etat decree determines its members' compensation scheme, its accounting system and the implementing regulations for the present article.

Article L621-5-3

(inserted by Order No. 2003-706 of 1 August 2003 Article 7 I, Official Journal of 2 August 2003)

I. - A fixed rate of duty is due from persons subject to the supervision of the Financial Markets Authority, when the legislation or regulations so provide, in the following instances:

1 When the Financial Markets Authority publishes a declaration made by a person, acting jointly or alone, pursuant to Articles L. 233-7 or L. 233-11 of the Commercial Code. The duty payable, determined by decree, is above 500 euros and below or equal to 1,000 euros, due on the day the document is filed;

2 When an application to file a takeover bid is examined. The duty payable, determined by decree, is above 2,000 euros and below or equal to 4,000 euros, due on the day the Financial Markets Authority makes its decision;

3 Upon inspection of an annual reference document or the basic document submitted by a company whose shares are admitted to trading on a regulated market pursuant to Article L. 621-18. The duty payable, determined by decree, is above 500 euros and below or equal to 1,000 euros, due on the day the document is filed;

4 When the marketing in France of an undertaking for collective investment subject to the legislation of a Foreign State, or of a compartment of such an undertaking, is authorised. The duty payable, determined by decree, is above 1,000 euros and below or equal to 2,000 euros, due on the day on which the application for authorisation is made in the first year and on 30 April in subsequent years;

5 Upon submission by an issuer of an information document concerning an issue schedule for debt instruments subject to prior registration by the Financial Markets Authority pursuant to Article L. 621-8 or relating to financial futures contracts referred to in 1 of II of Article L. 211-1. The duty payable, determined by decree, is above 1,000 euros and below or equal to 2,000 euros, due on the day the document is filed;

6 Upon issuance of each tranche of warrants on the basis of an information document subject to the prior approval of the Financial Markets Authority pursuant to Article L. 621-8. The duty payable is set at 150 euros per tranche, due on the day of issue;

7 Upon the filing with the Financial Markets Authority of an information document or draft model contract relating to a miscellaneous property investment plan governed by Articles L. 550-1 to L. 550-5. The duty payable, determined by decree, is above 6,000 euros and below or equal to 8,000 euros, due on the day of the said filing.

II. - A contribution is due from persons subject to the supervision of the Financial Markets Authority, when the legislation or regulations so provide, in the following instances:

1 When a public purchase, withdrawal or price guarantee offer is made. The contribution is the sum of a duty set at 10,000 euros and an amount equal to the value of the financial instruments bought, exchanged, presented or covered, multiplied by a rate, determined by decree, which cannot be above 0.30 per mil when the securities involved give or could give direct or indirect access to the capital or voting rights, and 0.15 per mil in other cases.

That contribution is payable by any initiator of a bid, regardless of the result, on the day the results of the procedure are published;

2 Upon submission by an issuer of an information document concerning an issue, a public transfer, an admission to trading on a regulated market or a redemption of securities subject to the prior approval of the Financial Markets Authority pursuant to Article L. 621-8. The said contribution is based on the value of the financial instruments at the time of the procedure. The rate thereof, determined by decree, cannot be above 0.20 per mil when the securities involved give or could give access to the capital, and 0.05 per mil when the procedure relates to debt instruments.

The contribution is payable on the day of closure of the procedure, or, in the case of a redemption of securities, on the day of publication of the result. The amount thereof cannot be below 1,000 euros when the securities involved give or could give access to the capital, and cannot be above 5,000 euros in other cases;

3 Within the scope of the supervision of the persons referred to in 1 to 8 of II of Article L. 621-9, that contribution is calculated as follows:

a) For the persons referred to in 1 and 2 of II of Article L. 621-9, the contribution is set at an amount per investment service for which they are authorised other than the investment service referred to in 4 of Article L. 321-1, and per related service for which they are authorised, as determined by decree, which is above 2,000 euros and below or equal to 3,000 euros. That amount is multiplied by two if the equity capital of the person concerned is above 45 million euros and below or equal to 75 million euros, by three if it is above 75 million euros and below or equal to 150 million euros, by four if it is above 150 million euros and below or equal to 750 million euros, by six if it is above 750 million euros and below or equal to 1.5 billion euros and by eight if it is above 1.5 billion euros; the contribution due from all the persons within a single group or by a group of persons affiliated to a central body within the meaning of Article L. 511-30, and by

that body, cannot exceed 250,000 euros;

b) For the persons referred to in 4/II of Article L. 621-9, the contribution is equal to an amount determined by decree and above 500 euros and below or equal to 1,000 euros;

c) For the persons referred to in 3, 5 and 6 of II of Article L. 621-9, the contribution is set at an amount equal to the operating income achieved by them in the previous accounting period, declared within three months of its closure, at the latest, multiplied by a rate determined by decree which cannot exceed 0.3%;

d) For investment service providers authorised to provide the investment service referred to in 4 of Article L. 321-1 and the persons referred to in 7 and 8 of II of Article L. 621-9, the contribution is set at an amount equal to the outstanding units or shares of undertakings for collective investment and investment entities subject to foreign law, and of the assets under management, regardless of the country in which the assets are held or registered, multiplied by a rate determined by decree of not more than 0.015 per mil, which cannot be below 1,500 euros. The outstanding amounts are calculated as of 31 December of the previous year and declared by 30 April at the latest;

4 Within the scope of the supervision of the persons referred to in 10 of II of Article L. 621-9, that contribution is equal to an amount determined by decree which is above 500 euros and below or equal to 1,000 euros.

III. - The decrees referred to in the present article are issued after consulting the college of the Financial Markets Authority.

NB: The provisions of 4/II of the present article enter into force on 1 January 2005.

Article L621-5-4

(inserted by Order No. 2003-706 of 1 August 2003 Article 7 I, Official Journal of 2 August 2003)

The duties and contributions referred to in Article L. 621-5-3 are calculated, authorised and collected in accordance with terms laid down for the revenues of the State's public administration institutions. Disputes relating to those duties and contributions are brought before the administrative court.

They are paid as and when determined by decree.

The due date for payment is thirty days from receipt of the notice to pay. The amount due attracts monthly interest at the legal rate with effect from the thirty-first day following the date of receipt of the notice to pay, with any month begun counting as a whole month.

If a party liable for a duty or a contribution does not provide the requested information required to determine the base for the contribution and its collection, the amount of the contribution is increased by 10%.

The increase may be extended to 40% if the document containing the information is not filed within thirty days of receipt of a formal demand sent by registered letter requiring production within that time limit, and to 80% if that document has not been delivered within thirty days of receipt of a second formal demand delivered in the same manner as the first.

The increases provided for in the two previous paragraphs cannot be imposed until thirty days have elapsed since delivery of the document informing the party liable of the increase it is intended to apply to it, the grounds therefor and the opportunity that party has to present its observations within that time limit.

The Financial Markets Authority's investigators, empowered as provided for in Article L. 621-9-1, examine the declarations. To that end, they may request from the parties liable for a duty or contribution any information, proof, or clarification regarding the declarations submitted.

SECTION IV
Powers — Articles L621-6 to L621-18-4

Subsection 1
Regulations and Decisions — Articles L621-6 to L621-7-1

Article L621-6

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 8 I, II, Official Journal of 2 August 2003)

In the performance of its duties, the Financial Markets Authority applies General Regulations which are published in the Official Journal of the French Republic following approval by order of the Minister for the Economy.

The Financial Markets Authority may make decisions of individual scope when applying its General Regulations and exercising its other competences. It may also publish instructions and recommendations to clarify interpretation of the General Regulations.

Article L621-7

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 8 I, III Official Journal of 2 August 2003)
(Act No. 2005-811 of 20 July 2005 Art. 5 I without prejudice to Art. 5 III Official Journal of 21 July 2005)
(Act No. 2005-842 of 26 July 2005 Art. 26 IV, Art. 29 I Official Journal of 27 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

The General Regulations of the Financial Markets Authority determine:

I. - The rules of professional practise applicable to issuers making public offerings, and the rules which must be complied with in transactions relating to financial instruments placed through public offerings.

II. - The rules relating to takeover bids involving financial instruments issued through public offerings.

III. - The rules of good conduct and other professional obligations that the persons referred to in II of Article L. 621-9 must comply with at all times, and which must take account of the financial expertise of the person to whom the service is rendered.

IV. - For investment service providers, market undertakings, members of the regulated markets and clearing houses and their members:

1 The conditions under which investment service providers render the services described in Article L. 321-2;

2 The conditions under which members of the clearing houses referred to in Article L. 442-2 conduct their business;

3 The conditions under which a professional card may be issued to or withdrawn from natural persons placed under the authority, or acting on behalf of, investment service providers, market undertakings, members of the regulated markets, and clearing houses and their members;

4 The rules applicable to the persons referred to in Article L. 532-18;

5 The conditions under which certain investment service providers may act without del credere status;

6 The conditions under which certain natural persons or legal entities may be authorised to render services referred to in 2 and 3 of Article L. 321-1 on a regulated market without having investment service provider status;

7 The conditions under which, pursuant to Article L. 442-1, the Financial Markets Authority approves the clearing houses' rules, without prejudice to the powers conferred on the Bank of France by Article L. 141-4.

V. - Concerning management activities carried out on behalf of third parties and collective investment:

1 The conditions under which the business of investment service providers who exclusively or principally provide a portfolio-management service to third parties is conducted, and the conditions of approval of portfolio-management companies;

2 The conditions of approval and terms of business of management companies of undertakings for collective investment;

3 The conditions of approval of undertakings for collective investment;

4 The conditions under which custodians of undertakings for collective investment conduct their business.

VI. - Concerning the custody and administration of financial instruments, the central custodians and settlement-delivery systems for financial instruments:

1 The conditions under which legal entities which carry out transactions through public offerings while providing custody or administration for financial instruments, and the intermediaries authorised in relation thereto as provided for in Article L. 542-1, conduct their business;

2 The conditions under which central custodians are approved by the Financial Markets Authority, and the conditions applicable to that authority's approval of their operational rules;

3 The general organisational and operational principles of settlement-delivery systems for financial instruments and the terms of the Financial Markets Authority's approval of their operational rules, without prejudice to the powers conferred on the Bank of France by Article L. 141-4.

VII. - Concerning the regulated markets for financial instruments:

1 The general organisational and operational principles the regulated markets must comply with, and the rules relating to the execution of transactions involving financial instruments admitted to those markets;

2 The conditions under which the Financial Markets Authority, pursuant to Articles L. 421-1 and L. 421-3, proposes the recognition or withdrawal of regulated market status for financial instruments;

3 Revoked.

4 The rules relating to the provision of information to the Financial Markets Authority and the public concerning orders and transactions which involve financial instruments admitted to trading on a regulated market.

The General Regulations may also determine operational rules applicable to financial instruments markets other than the regulated markets.

VIII. - Concerning persons, other than those referred to in 1 and 7 of II of Article L. 621-9, who produce and circulate financial analyses:

1 The conditions under which the persons referred to in Article L. 544-1 conduct their business;

2 The rules of good conduct applicable to natural persons placed under the authority, or acting on behalf, of persons who produce and circulate financial analyses in the normal course of their business, and the provisions intended to ensure the independence of their opinions and the prevention of conflicts of interest.

IX. - The rules relating to investment recommendations intended for the public in respect of any issuer whose financial instruments are admitted to trading on a regulated market or a financial instrument it issues, when such recommendations are produced or circulated by any person in connection with his/her professional activities.

A Conseil d'Etat decree specifies the cases in which financial information given to the public constitutes production or dissemination of an investment recommendation as described in the previous paragraph.

X. - The implementing rules for the publication and information requirements stipulated in the present code which call for filing or dissemination in the press and electronically, or free provision of leaflets, in connection with public offerings and to ensure transparency of the financial markets.

NB: Act 2005-811 2005-07-20 Art. 5 III: The provisions of I become applicable on the date of entry into force of the order referred to in II of Article 5 of Act No. 2005-811.

Article L621-7-1

(inserted by Order No. 2003-706 of 1 August 2003 Article 8 IV, Official Journal of 2 August 2003)

In the event of the Financial Markets Authority failing to act despite a formal demand sent by the Minister for the Economy, the urgent measures necessitated by the circumstances are stipulated by decree.

Article L621-8

(Act No. 2001-420 of 15 May 2001 Art. 4 III Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 46 V 1, 2 Official Journal of 2 August 2003)
(Act No. 2005-842 of 26 July 2005 Art. 26 III Official Journal of 27 July 2005)

I. - The draft document referred to in Article L. 412-1, or any equivalent document required by the legislation of another European Economic Area Member State, is subject to prior approval from the Financial Markets Authority for any transaction carried out in the European Economic Area if the issuer of the securities to which the transaction relates has its registered office in France and if the transaction involves capital securities or securities giving access to the capital within the meaning of Article L. 212-7 or debt instruments having a nominal value below 1,000 euros which are not money market instruments within the meaning of Directive 2004/39/EC of the European Parliament and Council of 21 April 2004 relating to the financial instruments markets, and their maturity is under twelve months.

II. - The draft document referred to in I is also subject to prior approval from the Financial Markets Authority in the cases determined in its General Regulations for any transaction carried out in the European Economic Area if the transaction is carried out in France or if the issuer of the securities to which the transaction relates has its registered office there and if the transaction involves debt instruments, other than securities giving access to the capital within the meaning of Article L. 212-7, conferring the right to buy or sell any other security or giving rise to a cash settlement, including warrants, or debt instruments having a nominal value greater than or equal to 1,000 euros which are not money market instruments, within the meaning of the aforementioned Directive 2004/39/EC of the European Parliament and Council of 21 April 2004, and their maturity is under twelve months.

III. - The draft document referred to in I is also subject to prior approval from the Financial Markets Authority in the cases determined in its General Regulations for any transaction carried out in the European Economic Area if the issuer of the securities to which the transaction relates has its registered office outside the European Economic Area and if the transaction involves financial instruments whose initial public offering or assignment in the European Economic Area or first listing on a regulated market of a European Economic Area Member State took place in France.

IV. - The draft document referred to in I is also subject to prior approval from the Financial Markets Authority for any transaction carried out in France which involves financial instruments other than those referred to in I and II.

V. - When the Financial Markets Authority is not the authority responsible for approving the draft document referred to in I, it may, as stipulated in its General Regulations and at the request of the supervisory authority of another European Economic Area Member State, approve the aforementioned draft document.

VI. - In the cases referred to in I to III, the Financial Markets Authority may ask the supervisory authority of another European Economic Area Member State to approve the draft document referred to in I.

When the supervisory authority of the other European Economic Area Member State agrees to the request, the Financial Markets Authority shall inform the person carrying out the transaction thereof within three working days.

VII. - Save for the cases envisaged in Article L. 412-1, the draft document subject to approval from the Financial Markets Authority is drawn up and published as provided for in its General Regulations.

VIII. - Any new fact or any error or inaccuracy in the information contained in the document referred to in I approved by the Financial Markets Authority which is likely to have a significant influence on the evaluation of the financial instruments and occurs or is noted between the obtaining of approval and completion of the transaction, is recorded in a supplementary note to the document referred to in I. The said note is subject to approval as provided for in the General Regulations of the Financial Markets Authority.

IX. - Pursuant to terms and conditions determined by its General Regulations, the Financial Markets Authority's prior approval is also required when a natural person or legal entity makes a takeover bid for the capital securities or debt instruments of an issuer which makes public offerings in France. The document to which the authority affixes its seal of prior approval contains the employment details of the natural person or legal entity making the takeover bid.

Article L621-8-1

(inserted by Act No. 2005-842 of 26 July 2005 Art. 26 III Official Journal of 27 July 2005)

I. - Before issuing the approval referred to in Article L. 621-8, the Financial Markets Authority verifies that the document is complete and comprehensible, and that the information it contains is correctly presented. The Financial Markets Authority indicates any statements to be altered or additional information to be inserted.

The Financial Markets Authority may also request any explanation or proof, particularly in regard to the issuer's situation, business and results and concerning any guarantors of the financial instruments to which the transaction relates.

II. - The Financial Markets Authority may suspend the transaction for a period which shall not exceed a limit set by its General Regulations when it has reasonable grounds for suspecting that it is contrary to the laws or regulations applicable to it.

The Financial Markets Authority may prohibit the transaction:

1 When it has reasonable grounds for suspecting that an issue or assignment is contrary to the laws or regulations applicable to it;

2 When it notes that a proposed admission to trading on a regulated market is contrary to the laws or regulations applicable to it.

Article L621-8-2

(inserted by Act No. 2005-842 of 26 July 2005 Art. 26 III Official Journal of 27 July 2005)

The General Regulations of the Financial Markets Authority stipulate the terms and conditions under which promotional communications may be used in connection with public offerings.

The authority may prohibit or suspend promotional communications for ten trading days when it has reasonable grounds for suspecting that they are contrary to the provisions of the present article.

Article L621-8-3

(inserted by Act No. 2005-842 of 26 July 2005 Art. 26 III Official Journal of 27 July 2005)

When the Financial Markets Authority is not the authority responsible for approving the draft document referred to in I of Article L. 621-8 and it establishes that irregularities were committed in connection with a public offering made in France by the person carrying out the transaction or the institutions responsible for its distribution, it shall inform the supervisory authority of the European Economic Area Member State which approved that document thereof.

If, despite the measures taken by that authority or on account of their inadequacy, the issuer or the institutions responsible for distribution continue to violate the laws or regulations applicable thereto, the Financial Markets Authority may, having informed the supervisory authority and approved the document, take all necessary measures to protect the investors.

The Financial Markets Authority shall inform the European Commission of such measures as soon as possible.

Subsection 3
Inspections and Investigations — Articles L621-9 to L621-12

Article L621-9

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 9, Art. 10 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 81 Official Journal of 7 May 2005)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

I. - In the performance of its duties, the Financial Markets Authority carries out inspections and investigations.

It monitors the conformity of transactions which involve securities which are the subject of public offerings. The markets for instruments created to represent banking transactions which, pursuant to Article L. 214-4, cannot be held by undertakings for collective investment in transferable securities, are not subject to the Financial Markets Authority's supervision.

II. - The Financial Markets Authority also monitors compliance with the professional obligations that the following legal entities and natural persons placed under their authority or acting on their behalf must fulfil by virtue of the laws and regulations:

1 Approved investment service providers and those conducting their business in France under freedom of establishment;

2 Persons authorised to provide custody or administration of financial instruments referred to in Article L. 542-1, including the custodians of undertakings for collective investment in transferable securities;

3 Central custodians and managers of settlement-delivery systems for financial instruments;

4 Members of regulated markets referred to in Article L. 421-8;

5 Market undertakings;

6 Clearing houses for financial instruments;

7 Undertakings for collective investment and their management companies;

8 Miscellaneous property intermediaries;

9 The persons authorised to canvass referred to in Articles L. 341-3 and L. 341-4;

10 Financial investment advisors;

11 Persons, other than those referred to in 1 and 7, who produce and circulate financial analyses;

12 Custodians of undertakings for collective investment.

13 Property valuers.

For persons or entities other than those providing services referred to in 4 of Article L. 321-1 or the persons or entities referred to in 7, 8, 10 and 11 above, in respect of whom the Financial Markets Authority has sole competence, supervision is exercised without prejudice to the competence of the Banking Commission and, for those referred to in 3 and 6, without prejudice to the powers conferred on the Bank of France by Article L. 141-4.

The Financial Markets Authority is also responsible for ensuring compliance with the laws and regulations applicable to the investment service providers referred to in Article L. 532-18, pursuant to Articles L. 532-19 to L. 532-21.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L621-9-1

(inserted by Order No. 2003-706 of 1 August 2003 Article 11 I, Official Journal of 2 August 2003)

When the secretary general of the Financial Markets Authority decides to carry out investigations, he empowers the investigators under terms laid down in the General Regulations.

The persons thus empowered meet ethical conditions set forth in a Conseil d'Etat decree.

Article L621-9-2

(inserted by Order No. 2003-706 of 1 August 2003 Article 11 I, Official Journal of 2 August 2003)

As determined in a Conseil d'Etat decree, the Financial Markets Authority may:

1 Delegate to the market undertakings and, if applicable, the clearing houses, supervision of the business and transactions executed by the members of a regulated market and by the investment service providers who transmit orders through that market. Such delegation is the subject of a memorandum of agreement. It may be withdrawn at any time;

2 Have recourse, for its inspections and investigations, to external inspection sources, auditors, experts included on a list of legal experts, or competent persons or authorities. Those persons may receive remuneration from the Financial Markets Authority in respect thereof.

The college or the secretary general of the Financial Markets Authority may request the auditors of companies which make public offerings or an expert included on a list of legal experts to carry out any additional analysis or verification which they consider necessary for persons and entities making public offerings and the persons referred to in II of Article L. 621-9. The costs and fees are for the account of the Financial Markets Authority.

Article L621-9-3

(inserted by Order No. 2003-706 of 1 August 2003 Article 11 I, Official Journal of 2 August 2003)

Within the scope of the inspections and investigations referred to in Articles L. 621-9 and L. 621-9-1, professional secrecy cannot be invoked against the Financial Markets Authority or, if applicable, the market undertakings or clearing houses, external control sources, persons or authorities referred to in Article L. 621-9-2, when they are assisting the Financial Markets Authority, except by representatives of the law.

For application of the present subsection, auditors are released from professional secrecy in regard to the Financial Markets Authority.

Article L621-10

(Amending Finance Act No. 2001-1276 of 28 December 2001 Art. 62 III for 2001 Official Journal of 29 December 2001)
(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 9, Art. 11 II Official Journal of 2 August 2003)
(Act No. 2004-575 of 21 June 2004 Art. 56 II Official Journal of 22 June 2004)
(Act No. 2004-669 of 9 July 2004 Art. 119 Official Journal of 10 July 2004)

The investigators may, for the purposes of the investigation, request sight of any document, regardless of its form, including the data held and processed by telecommunications operators within the purview of Article L. 34-1 of the Post and Telecommunications Code and the service providers referred to in 1 and 2 of I of Article 6 of Act No. 2004-575 of 21 June 2004 for confidence in the digital economy, and obtain copies thereof. They may summon and hear any person able to provide them with information. They may have access to business premises.

Article L621-11

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 9, Article 11 III, Official Journal of 2 August 2003)

Any person summoned has the right to be accompanied by the advisor of his choice. The terms of the notice to attend and the circumstances in which that right is exercised are determined in a Conseil d'Etat decree.

Article L621-12

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 9, Article 11 IV, Official Journal of 2 August 2003)

In order to uncover the violations referred to in Articles L. 465-1 and L. 465-2, the presiding judge of the tribunal de grande instance of the place at which the premises to be inspected are located may, on a grounded request from the secretary general of the Financial Markets Authority, authorise the Commission's investigators to conduct inspections at any place and to effect seizures of documents. The order is only appealable pursuant to the rules laid down by the code of criminal procedure; such appeals do not have suspensive effect.

The judge must verify that the request for authorisation which is presented to him is well-founded; that request must contain all the elements of information in the Commission's possession which justify such an inspection. He designates a law enforcement officer who must be in attendance when such measures are enforced and who must keep him informed of their progress.

The inspection takes place under the authority and control of the judge who authorised it. He may visit the premises during the inspection. He may decide to suspend or terminate the inspection at any time.

The inspection cannot commence before 6.00 a.m. or after 7.30 p.m.; in places open to the public, it may also commence during normal opening hours. It is carried out in the presence of the occupant of the premises or its representative; if this proves impossible, the law enforcement officer enlists the services of two witnesses who are not under his authority or that of the Commission.

Only the Commission's investigators, the occupant of the premises or its representative and the law enforcement officer may take due note of the documents before they are seized.

The law enforcement officer ensures that professional secrecy is respected, as well as the rights of defence pursuant to the provisions of the third paragraph of Article 56 of the Code of Criminal Proceedings. Article 58 of that code is applicable.

The minutes of the inspection, recording the terms and details of the operation, is drawn up on the spot by the Commission's investigators. An inventory of the documents seized is appended thereto. The report and the inventory are signed by the Commission's investigators and the law enforcement officer, as well as the persons referred to in the fifth

paragraph of the present article; in the event of a refusal to sign, this is mentioned in the report. If it is not possible to make an inventory on the spot, the documents seized are placed under seal. The occupant of the premises or its representative is informed that he may be present at the opening of the seals, which takes place in the presence of the law enforcement officer; the inventory is then drawn up.

The originals of the minutes of the inspection and the inventory are, as soon as they are drawn up, sent to the judge who issued the order; a copy of those same documents is sent to the occupant of the premises or its representative.

Documents which are no longer needed for discovery of the truth are returned to the occupant of the premises.

Subsection 4
Injunctions and Emergency Measures — Articles L621-13 to L621-14

Article L621-13

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 12 I, II, Official Journal of 2 August 2003)

The presiding judge of the tribunal de grande instance may, on a grounded request from the chairman or secretary general of the Financial Markets Authority, declare the sequestration of the funds, securities, certificates or rights belonging to the persons it is pursuing, regardless of who holds them. It rules on an order made in response to an ex parte application, it being incumbent on any interested party to make reference thereto. He may, under the same conditions, pronounce the temporary prohibition of the professional activity.

The presiding judge of the tribunal de grande instance may, on a grounded request from the chairman or secretary general of the Financial Markets Authority, order, on a summary basis, that a person pursued be required to consign a sum of money.

He determines the amount of the sum to be consigned, the time limit for consignment thereof and its allocation.

In the event of the consignee being indicted, the investigating judge handling the case orders the total or partial lifting of the consignment or the maintenance or extension thereof via a decision rendered pursuant to 11 of Article 138 of the Code of Criminal Proceedings.

Article L621-14

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 12 I, Art. 13 Official Journal of 2 August 2003)
(Act No. 2005-842 of 26 July 2005 Art. 30 I Official Journal of 27 July 2005)

I. - The board may, after giving the person concerned an opportunity to present his explanations, order the cessation, in France and abroad, of all breaches of the obligations imposed by the laws or regulations or by professional rules intended to protect investors from insider trading, price rigging and dissemination of false information, and any other breach likely to jeopardise investor protection or the proper operation of the market. Such decisions may be made public.

The board also exercises powers identical to those referred to in the previous paragraph to deal with breaches of the obligations resulting from the laws or regulations intended to protect investors and the market from insider trading, price rigging and dissemination of false information committed in France in connection with financial instruments admitted to trading on a regulated market of another European Community or European Economic Area Member State or in respect of which an application for admission to trading on such a market has been submitted.

II. - The chairman of the Financial Markets Authority may ask the court to order the person responsible for the practice detected to comply with the laws or regulations and end the irregularity or eliminate its effects.

The request is brought before the presiding judge of the tribunal de grande instance of Paris ruling on a summary basis, whose decision is immediately enforceable. He may automatically take any protective measure and impose a coercive fine payable to the Trésor public for execution of his order.

If criminal proceedings are brought, the coercive fine, if one has been imposed, is not collected until the decision in the public action becomes final.

Subsection 5
Sanctions — Articles L621-15 to L621-17-1

Article L621-15

(Order No. 2000-916 of 19 September 2000 Art. 3 Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 14 I, II Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82, Art. 83 Official Journal of 7 May 2005)
(Act No. 2005-842 of 26 July 2005 Art. 30 II Official Journal of 27 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

I. - The board examines the investigation or inspection report drawn up by the Financial Markets Authority, or the request formulated by the Governor of the Bank of France, as chairman of the Banking Commission, or by the chairman of the Insurance and Mutual Societies Supervisory Authority.

If it decides to initiate disciplinary proceedings, it informs the persons concerned of the allegations and sends details thereof to the disciplinary committee. The latter appoints a rapporteur from among its members. The disciplinary committee is not competent to hear facts which date back more than three years if no action was taken to detect, record or sanction them during that period.

In an emergency, the board may suspend the activities of the persons referred to in a) and b) of II against whom disciplinary proceedings are initiated.

If the board sends the report referred to in the first paragraph to the Public Prosecutor, the board may decide to make that fact public.

II. - Following an adversary procedure, the disciplinary committee may impose a penalty on the following persons:

a) Persons referred to in 1 to 8 and 11 and 12 of II of Article L. 621-9, in respect of any breach of their professional obligations imposed by the applicable laws, regulations and professional rules approved by the Financial Markets Authority, without prejudice to the provisions of Article L. 613-21;

b) Natural persons placed under the authority of, or acting on behalf of, a person referred to in 1 to 8, 11 and 12 of II of Article L. 621-9 for any breach of their professional obligations imposed by the applicable laws, regulations and professional rules approved by the Financial Markets Authority, without prejudice to the provisions of Article L. 613-21;

c) Any person who, in France or abroad, has carried out or attempted to carry out an insider deal or has manipulated exchange rates, circulated false information or is guilty of any other breach referred to in the first paragraph of I of Article L. 621-14, when such acts relate to a financial instrument issued by a person or entity who make public offerings or admitted to trading on a financial instruments market or for whom an application for admission to trading on such a market has been submitted, as determined by the General Regulations of the Financial Markets Authority;

d) Any person who, in France, has carried out or attempted to carry out an insider deal or has manipulated exchange rates, circulated false information or is guilty of any other breach referred to in the first paragraph of I of Article L. 621-14, when such acts relate to a financial instrument admitted to trading on a regulated market of another European Community or European Economic Area Member State or for whom an application for admission to trading on such a market has been submitted.

III. - The penalties applicable are:

a) For the persons referred to in 1 to 8, 11 and 12 of II of Article L. 621-9, a warning, a reprimand, or temporary or permanent prohibition from providing some or all of the services offered; the disciplinary committee may pronounce, either instead of, or in addition to, those penalties, a financial penalty of an amount not exceeding 1.5 million euros or ten times the amount of any profit realised; the sums are paid to the guarantee fund to which the person penalised is affiliated, or, failing this, to the Trésor public;

b) For natural persons placed under the authority of, or acting on behalf of, a person referred to in 1 to 8, 11 and 12 of II of Article L. 621-9, a warning, a reprimand, temporary or permanent withdrawal of their professional card, temporary or permanent prohibition from engaging in some or all of their activities; the disciplinary committee may pronounce, either instead of, or in addition to, those penalties, a financial penalty of an amount not exceeding 1.5 million euros or ten times the amount of any profit realised in the case of practises referred to in c) and d) of II, or 300,000 euros or five times the amount of any profit realised in other cases; the sums are paid to the guarantee fund to which the legal entity under whose authority or on whose behalf the person penalised acted is affiliated, or, failing this, to the Trésor public;

c) For persons other than those referred to in II of Article L. 621-9 who perpetrate facts referred to in c) and d) of II, a financial penalty of an amount not exceeding 1.5 million euros or ten times the amount of any profit realised; the sums are paid to the Trésor public.

The amount of the penalty must be commensurate with the seriousness of the breaches committed and any advantages or profits derived from those breaches.

IV. - If the rapporteur is not present, the disciplinary committee rules on the basis of a reasoned decision. No penalty may be imposed unless the person concerned or his representative has been heard or, failing that, duly summoned.

V. - The disciplinary committee may publish its decision in the publications, journals or other media which it designates. The cost thereof is borne by the persons penalised.

Article L621-15-1

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 14 III Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)

If an allegation notified pursuant to the second paragraph of I of Article L. 621-15 is likely to constitute an offence referred to in Articles L. 465-1 and L. 465-2, the board immediately sends the investigation or inspection report to the Public Prosecutor of the tribunal de grande instance of Paris.

When the Public Prosecutor of the tribunal de grande instance of Paris decides to prosecute on the basis of the facts thus received, he informs the Financial Markets Authority thereof without delay.

The Public Prosecutor of the tribunal de grande instance of Paris may send the Financial Markets Authority, automatically or at its request, a copy of any document from proceedings relating to the facts thus received.

Article L621-16

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 14 I, Art. 46 III 29 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)

When the Disciplinary committee of the Financial Markets Authority has imposed a financial penalty which has become final before the criminal judge has given a final ruling on the same facts or related facts, the latter may order that the financial penalty be set off against the fine he imposes.

Article L621-16-1

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 16 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)

When a prosecution is instituted pursuant to Articles L. 465-1 and L. 465-2, the Financial Markets Authority may bring an independent action for damages. However, it cannot in regard to the same person and the same facts, concurrently exercise the disciplinary powers it holds by virtue of the present code and the right to take civil action.

Article L621-17

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 14 I, Art. 56 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)

Any violation by the financial investment advisors defined in Article L. 541-1 of the laws, regulations and professional obligations which concern them shall incur penalties imposed by the disciplinary committee under the terms of I a) and I b) of III, IV and V of Article L. 621-15.

The amount of the penalty must be commensurate with the seriousness of the breaches committed and any advantages or profits derived from those breaches.

Article L621-17-1

(inserted by Act No. 2005-842 of 26 July 2005 Art. 29 II Official Journal of 27 July 2005)

Any breach by persons producing or circulating investment recommendations intended for the public in the normal course of their business activities shall, under the rules laid down in IX of Article L. 621-7, incur the penalties pronounced by the disciplinary committee pursuant to Article L. 621-15.

Subsection 6
Declaration of Suspect Transactions — Articles L621-17-2 to L621-17-7

Article L621-17-2

(Act No. 2005-811 of 20 July 2005 Art. 1 II Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

Credit institutions, investment firms and persons referred to in Article L. 421-8 are required to immediately declare to the Financial Markets Authority any transaction involving financial instruments admitted to trading on a regulated market, or in respect of which an application for admission to trading on such a market has been submitted, which is carried out on an own-account basis or on behalf of third parties, if they have reason to suspect that it may involve insider dealing or price rigging within the meaning of the provisions of the General Regulations of the Financial Markets Authority.

Article L621-17-3

(Act No. 2005-811 of 20 July 2005 Art. 1 II Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

When the Financial Markets Authority sends certain facts or information to the Public Prosecutor of the tribunal de grande instance of Paris pursuant to Articles L. 621-15-1 and L. 621-20-1, the declaration referred to in Article L. 621-17-2, which the Public Prosecutor is informed of, is not included in the case file.

Article L621-17-4

(Act No. 2005-811 of 20 July 2005 Art. 1 II Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

The General Regulations of the Financial Markets Authority specify the circumstances in which the declaration referred to in Article L. 621-17-2 is made.

The declaration may be written or verbal. In the latter case, the Financial Markets Authority requests confirmation thereof in writing.

The declaration must contain:

1 A description of the transactions indicating the type of order and the trading method used;

2 The reasons that give rise to the suspicion that the declared transactions might involve insider dealing or price rigging;

3 The means of identifying the persons on behalf of whom the transactions were carried out and any other person involved in them;

4 An indication as to whether the transactions were carried out for their own account or for third parties;

5 Any other relevant information concerning the declared transactions.

If any of these elements are unavailable when the declaration is made, the reasons referred to in 2 must be indicated therein at very least. The remaining information must be sent to the Financial Markets Authority as soon as it becomes available.

Article L621-17-5

(Act No. 2005-811 of 20 July 2005 Art. 1 II Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

Any executive or employee of the persons referred to in Article L. 621-17-2 of the present code who informs anyone, and in particular persons or parties linked to the persons on behalf of whom the declared transactions were carried out, of the declaration referred to in that same article or who discloses information concerning its outcome, shall incur the penalties provided for in Article 226-13 of the Penal Code.

Article L621-17-6

(Act No. 2005-811 of 20 July 2005 Art. 1 II Official Journal of 21 July 2005)

(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

Without prejudice to Article 40 of the Criminal Procedures Code, Articles L. 621-15-1, L. 621-17-3 and L. 621-20-1 of the present code and the powers invested in the Financial Markets Authority, the latter and all its members, the experts appointed to the consultative committees referred to in III of Article L. 621-2, and members of its staff, are prohibited from disclosing the information gathered pursuant to Article L. 621-17-2. If the Financial Markets Authority calls upon the services of persons referred to in Article L. 621-9-2, this prohibition shall extend to them, and likewise their executives and employees.

The fact of a member of the Financial Markets Authority, an expert appointed to the consultative committees referred to in III of Article L. 621-2, a member of its staff or an employee disclosing the content of the declaration or the identity of the persons to which it relates, shall incur the penalties stipulated in Article L. 642-1. If the Financial Markets Authority calls upon the services of persons referred to in Article L. 621-9-2, this prohibition shall extend to them, and likewise their executives and employees.

When transactions covered by the declaration come under the jurisdiction of the proper authority of another European Community or European Economic Area Member State, the Financial Markets Authority sends the declaration to that authority without delay as well as any additional information provided by the declarant at that authority's request, as provided for in Article L. 621-21.

Article L621-17-7

(Act No. 2005-811 of 20 July 2005 Art. 1 II Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

No proceedings founded on Article 226-13 of the Penal Code may be brought in respect of transactions covered by the declaration referred to in Article L. 621-17-2 against executives or employees of the persons referred to therein who made that declaration in good faith.

No action for civil damages may be brought against a person referred to in Article L. 621-17-2, its executives or its employees who made that declaration in good faith.

Barring any fraudulent collusion with the initiator of the transaction covered by the declaration, the declarant is released from all liability: no criminal proceedings may be brought against its executives or its employees pursuant to Article L. 465-1 or the first paragraph of Article L. 465-2 of the present code or Articles 321-1 to 321-3 of the Penal Code, and no administrative sanction proceedings may be brought against them for facts associated with insider dealing or price rigging.

The provisions of the present article shall apply even if proof of the culpable or criminal nature of the facts giving rise to the declaration is not furnished or if those facts result in a decision to acquit or dismiss without any penalty being imposed by the Financial Markets Authority or the proper authority referred to in the third paragraph of Article L. 621-17-6.

Subsection 7
Other Powers

Articles L621-18 to L621-18-4

Article L621-18

(Act No. 2001-420 of 15 May 2001 Art. 3 Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 46 V 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I Official Journal of 21 July 2005)
(Act No. 2005-842 of 26 July 2005 Art. 32 II Official Journal of 27 July 2005 effective 20 January 2007)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

The Financial Markets Authority ensures that the publications required by the laws or regulations are regularly made by the issuers referred to in Article L. 451-1-2.

It checks the information that those issuers publish. To this end, it may require the issuers, the persons who control them or are controlled by them and their auditors or statutory auditors to provide all relevant documents and information.

It may order the said issuers to provide amending or additional publications if any inaccuracies or omissions are found in the published documents. If the issuers concerned should fail to comply with that order, the Financial Markets Authority may, having discussed matters with the issuer, provide such amending or additional publications itself.

The Financial Markets Authority may publish the observations it makes to an issuer or any information it considers appropriate.

The fees occasioned by the publications referred to in the two previous paragraphs are borne by the issuers concerned.

Article L621-18-1

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 46 III 30 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

At the request of one or more investment service providers or an investment service providers' professional association, the Financial Markets Authority may, after consulting the Bank of France, certify model contracts for financial instrument transactions.

Article L621-18-2

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 122 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I, Art. 3 Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

The persons referred to in a) to c) shall notify the Financial Markets Authority of all acquisitions, transfers, subscriptions and exchanges of the securities of a person who make public offerings and the financial instrument transactions associated therewith, when such transactions are carried out by:

a) Members of the Board of Directors, the Executive Board or the Supervisory Board, or the general manager, sole general manager, acting general manager or manager of that entity;

b) Any other person who, within the meaning of the General Regulations of the Financial Markets Authority, has the power to make management decisions within the issuer regarding its positioning and strategy and also has regular access to privileged information which directly or indirectly concerns that issuer;

c) Persons having close personal links, as defined in a Conseil d'Etat decree, with the persons referred to in a) and b).

The persons referred to in a) to c) are required to send a copy of the information sent to the Financial Markets Authority pursuant to the first paragraph to the issuer at the same time. The General Regulations of the Financial Markets Authority specify the means of communication therefor as well as the manner in which the General Meeting of shareholders is informed of the transactions referred to in the present article.

Article L621-18-3

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 122 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

Legal entities that make public offerings publish the information relating to the matters referred to in the last paragraph of Articles L. 225-37 and L. 225-68 of the Commercial Code as determined by the General Regulations of the Financial Markets Authority. Which Authority draws up a report each year on the basis of that information.

Article L621-19

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 17, Art. 46 V 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

The authority is authorised to receive claims relating to matters within its jurisdiction from any interested party and to deal with them appropriately. When necessary, it proposes amicable resolution of the disputes brought to its attention, via conciliation or mediation.

It may formulate proposals for amendments to the laws and regulations concerning the information provided to holders of financial instruments and the public, the financial instruments markets and the status of investment service providers.

Each year, it draws up a report to the President of the Republic and Parliament which is published in the Official Journal of the French Republic.

The chairman of the Financial Markets Authority is heard, when they so request, by the Finance Committees of the two assemblies and may ask to be heard by them.

Article L621-20

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 18 I Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

For application of the provisions that fall within the jurisdiction of the Financial Markets Authority, the civil, criminal or administrative courts may call upon its chairman or his representative to make submissions and develop them orally at a hearing, without prejudice to the provisions of Article L. 466-1.

Article L621-20-1

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 18 II Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

If, within the scope of its remit, the Financial Markets Authority has knowledge of a crime or an offence, it is required to inform the Public Prosecutor thereof without delay and to send him all the relevant information, statements of offence and other documents.

Without prejudice to the provisions of the fourth paragraph of Article L. 621-21, the Public Prosecutor may obtain from the Financial Markets Authority all the information it holds in connection with the performance of its duties, and no obligation of secrecy may be raised against this.

Article L621-21

(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 19 I, Art. 46 V 1 Official Journal of 2 August 2003)
(Order No. 2005-429 of 6 May 2005 Art. 82, Art. 84 Official Journal of 7 May 2005)
(Act No. 2005-811 of 20 July 2005 Art. 1 I Official Journal of 21 July 2005)
(Act No. 2005-842 of 26 July 2005 Art. 32 III Official Journal of 27 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

At the request of foreign authorities which exercise similar powers, the Commission may, subject to reciprocity, carry out investigations under the conditions, procedures and sanctions applicable to the performance of its duties under the present code, unless the request is made by an authority of another European Community Member State or of another European Economic Area Member State.

Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural persons or legal entities, the professional secrecy obligation stipulated in II of Article L. 621-4 shall not impede communication by the Financial Markets Authority of the information it holds, or which it gathers at their request, to the authorities of other European Community Member States or of other European Economic Area Member States which exercise similar powers and are bound by the same professional secrecy obligations. The Financial Markets Authority and its agents may also exchange confidential information pertaining to the obligations referred to in Articles L. 412-1, L. 451-1-2 and L. 451-1-3 with the entities to which the said authorities have delegated supervision of those obligations, provided that those entities are bound by the same professional secrecy obligations. To this end, the Financial Markets Authority may enter into agreements which organise its relations with such delegated entities.

Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural persons or legal entities, the Financial Markets Authority may also communicate the information it holds, or which it gathers at their request, to the authorities of other States which exercise similar powers, subject to reciprocity, and provided that the relevant foreign authority is subject to professional secrecy as rigorous as that required in France.

The information gathered by the Financial Markets Authority may only be divulged with the explicit consent of the proper authorities which provided it, and even then, solely for the purposes for which those authorities gave their consent.

Assistance requested by a foreign authority exercising similar powers which calls for investigations or the transmission of information held or gathered by the authority is refused by the latter if acceding to the request would be likely to jeopardise French sovereignty, security or public order, or if criminal proceedings have already been instituted in France on the basis of the same facts and against the same persons, or if those persons have already been penalised for the same facts by a final decision.

For implementation of the previous paragraphs, the authority may enter into agreements which organise its relations with foreign authorities exercising powers similar to its own. Such agreements are approved by the authority as determined in Article L. 621-3. They are published in the Official Journal of the French Republic.

NB: A clerical error crept into the wording of Article 1 of Act No. 2005-811 of 20 July 2005: Read Subsection 6 instead of Subsection 5 and Subsection 7 instead of Subsection 6.

Article L621-18-4
(Act No. 2005-811 of 20 July 2005 Art. 4 Official Journal of 21 July 2005)
(Act No. 2005-1564 of 15 December 2005 Art. 17 Official Journal of 16 December 2005)

Any issuer whose financial instruments are admitted to trading on a regulated market or in respect of which an application for admission to trading on such a market has been submitted shall establish, update and make available to the Financial Markets Authority, as provided for in the latter's General Regulations, a list of its staff members who have access to privileged information directly or indirectly concerning that issuer and any third parties who have access to such information in the context of their professional dealings with that issuer.

The said third parties shall likewise establish, update and make available to the Financial Markets Authority a list of their staff members who have access to privileged information directly or indirectly concerning that issuer and any third parties who have access to such information in the context of their professional dealings with them.

SECTION IV
Relations with Auditors

Articles L621-22 to L621-25

Article L621-22
(Act No. 2003-706 of 1 August 2003 Art. 1, Art. 113 1, 2 Official Journal of 2 August 2003)
(Act No. 2005-842 of 26 July 2005 Art. 32 IV Official Journal of 27 July 2005 effective 20 January 2007)

I. - The Financial Markets Authority is informed of proposals to appoint or reappoint the auditors of persons who make public offerings and may make any observation on such proposals which it considers necessary. The said observations are drawn to the attention of the General Meeting or other structure making the appointment and to the professional concerned.

II. - It may request from the auditors of persons who make public offerings any information concerning the persons they audit.

The auditors of the persons referred to in the previous paragraph inform the authority of any fact or decision which justifies an intention on their part to refuse to certify the accounts.

III. - The auditors of persons who make public offerings may raise questions with the Financial Markets Authority

regarding any matter encountered in the performance of their duties which is likely to have an effect on that person's financial information.

IV. - The auditors of companies which make public offerings send the Financial Markets Authority a copy of the document sent to the chairman of the Board of Directors or to the Executive Board pursuant to the second paragraph of Article L. 234-1 of the Commercial Code. They also send that authority the conclusions of the report which they intend to present to the General Meeting pursuant to Articles L. 225-240 and L. 822-15 of that same code.

V. - The auditors are released from professional secrecy and thus shall not incur liability in respect of information provided pursuant to the obligations and formalities stipulated by the present article and Article L. 621-18.

Article L621-23

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 46 V 1, Article 113 1, Official Journal of 2 August 2003)

The auditors of portfolio management companies are released from professional secrecy in regard to the Financial Markets Authority.

The auditors are required to inform the Financial Markets Authority as soon as possible of any fact or decision concerning a portfolio management company which they have become aware of in the performance of their duties and which could:

1. Constitute a breach of the laws or regulations applicable to that company and be likely to have significant effects on its financial situation, profits or assets;

2. Jeopardize its continued exploitation;

3. Give rise to the issuing of reservations or a refusal to certify the accounts.

The same obligation applies to facts and decisions which they might become aware of in the performance of their duties relative to a parent company or subsidiary of a company referred to above.

The auditors shall not incur liability for information given or facts disclosed in the performance of their duties or under the obligations imposed by the present article.

The Financial Markets Authority may also send the auditors of portfolio management companies the information they require to accomplish their mission. The information thus transmitted is covered by the rule of professional secrecy.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L621-24

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 113 3, Official Journal of 2 August 2003)

The auditors are required to inform the Council as soon as possible of any fact or decision concerning an investment service provider or an intermediary authorised to provide custody or administration services for financial instruments which they have become aware of in the performance of their duties and is likely to constitute a breach of the provisions of the General Regulations of the Financial Markets Council relating to the rules of good conduct or the conditions applicable to the custody or administration of financial instruments. The Financial Markets Council may also send the auditors of investment service providers the information they require to accomplish their mission. The information thus transmitted is covered by the rule of professional secrecy.

Article L621-25

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 113 3, Official Journal of 2 August 2003)

The Financial Markets Council may ask the auditors of an investment service provider or an intermediary authorised to provide custody or administration services for financial instruments for any information concerning the application by that service provider or intermediary of the provisions of Part III of Book V of the present Code or of the General Regulations of the Financial Markets Council relating to the rules of good conduct or the conditions applicable to the custody or administration of financial instruments.

SECTION VI

Means of Redress Article L621-30

Article L621-30

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 1, Article 20, Article 48 II 5, Official Journal of 2 August 2003)

Consideration of the appeals made against the individual decisions of the Financial Markets Authority other than those relating to persons and entities referred to in II of Article L. 621-9, including the sanctions imposed on them, falls within the jurisdiction of the ordinary courts. Such appeals do not have suspensive effect unless the court decides otherwise. In which case, the court hearing the appeal may order that enforcement of the contested decision be suspended if it is likely to give rise to manifestly excessive consequences.

A Conseil d'Etat decree determines the present article's implementing regulations.

Section 7

Article L621-31

(Act No. 2003-706 of 1 August 2003 Art. 47 I 1 Official Journal of 2 August 2003)
(Act No. 2005-842 of 26 July 2005 Art. 29 III Official Journal of 27 July 2005)

The following are not subject to the rules laid down in the first paragraph of IX of Article L. 621-7 or the penalties imposed by Article L. 621-17-1:

1 The following companies, in relation to their journalistic activities, when they belong to an association constituted as provided for in Article L. 621-32:

- publishers of press publications within the meaning of Act No. 86-897 of 1 August 1986 reforming the law and jurisdiction applicable to the press;
- broadcasters of radio or television services within the meaning of Act No. 86-1067 of 30 September 1986 relating to freedom of communication;
- publishers of on-line public communications services within the meaning of Act No. 2004-575 of 21 June 2004 for confidence in the digital economy;
- press agencies within the meaning of Order No. 45-2646 of 2 November 1945 setting out provisional regulations for press agencies;

2 Journalists within the meaning of Article L. 761-2 of the Labour Code, when they carry out assignments in one or more companies referred to in 1.

Article L621-32

(inserted by Act No. 2005-842 of 26 July 2005 Art. 29 III Official Journal of 27 July 2005)

The associations referred to in 1 of Article L. 621-31 are formed by the persons enumerated therein, pursuant to the Act of 1 July 1901 relating to partnership agreements. Only persons in the categories enumerated in that same indent 1 may join them.

The association draws up a code of good conduct. The said code lays down specific rules intended to guarantee compliance by the association's members who make or disseminate investment recommendations intended for the public which relate to financial instruments admitted to trading on a regulated market, or to their issuer, with the obligations pertaining to fair presentation and disclosure of conflicts of interest pursuant to Directive 2003/125/EC of the Commission of 22 December 2003 containing implementing regulations for Directive 2003/6/EC of the European Parliament and Council relating to fair presentation of investment recommendations and disclosure of conflicts of interest.

The responsible editor or, failing that, the legal representative of the member company, ensures that the rules laid down in the code of good conduct are properly applied by the journalists working under his authority.

Article L621-33

(inserted by Act No. 2005-842 of 26 July 2005 Art. 29 III Official Journal of 27 July 2005)

The association referred to in Article L. 621-32 either automatically deals with facts likely to constitute a breach, by a member, of the rules of the code of good conduct referred to in that same article, or they are referred to it by the Financial Markets Authority.

Notwithstanding Articles 42 et seq of Act No. 86-1067 of 30 September 1986 relating to freedom of communication, when it has knowledge of a fact likely to constitute a breach by a company that broadcasts radio or television services, the Audiovisual Authority immediately informs the Financial Markets Authority with a view to launching an investigation.

When dealing with any fact referred to in the first paragraph, the association invites the member companies concerned and their responsible editor or, failing that, their legal representative, to submit their observations. It may, having completed that adversary procedure, impose a penalty on those persons for any breach of the rules laid down in the code of good conduct.

Article L621-34

(inserted by Act No. 2005-842 of 26 July 2005 Art. 29 III Official Journal of 27 July 2005)

The association may impose one of the following disciplinary sanctions on the member companies or their responsible editor, or, failing that, on their legal representative, commensurate with the seriousness of the breach:

1 A warning;

2 A reprimand;

3 The compulsory insertion of a notice or a communiqué in the medium concerned;

4 The broadcasting of a communiqué.

The association may also temporarily or permanently exclude one of its members. This measure may be ordered only in cases in which the member concerned fails to implement a sanction pronounced against him or if he has been repeatedly sanctioned for breaches of the rules laid down in the code of good conduct.

No sanction may be pronounced unless the person indicted or his representative has been heard, or, failing that, duly summoned.

The association rules within three months of opening the case. It informs the Financial Markets Authority of its decision within one of handing it down. If no decision is handed down within the three-month period, the association is deemed to have decided that there were no grounds for a sanction.

The association may publish its decision in the publications, journals or other media which it designates. The cost

thereof is borne by the member sanctioned.

The formalities for implementing and administering the disciplinary procedure referred to in the preceding paragraphs are set out in the association's articles of association.

Article L621-35

(inserted by Act No. 2005-842 of 26 July 2005 Art. 29 III Official Journal of 27 July 2005)

The association draws up an activity report each year. The said report is sent to the Financial Markets Authority, which makes its observations and recommendations on the association's activities in its annual report.

Article L631-1

(Act No. 2003-706 of 1 August 2003 Art. 29 III, Art. 46 III 31 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

Exchanges of information between supervisory authorities are governed by the provisions set forth below:

The Bank of France, the Credit Institutions and Investment Firms Committee, the Banking Commission, the Insurance and Mutual Societies Supervisory Authority, the Insurance Companies Committee, the Financial Markets Authority, the Deposit Guarantee Fund instituted by Article L. 312-4, the guarantee fund instituted by Article L. 423-1 of the Insurance Code, the market undertakings and the clearing houses are authorised to exchange the information they require to accomplish their respective missions.

The information thus gathered is covered by the professional secrecy conditions applicable to both the sending organisation and the recipient organisation.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L631-2

(Act No. 2001-420 of 15 May 2001 Art. 6 Official Journal of 16 May 2001)
(Act No. 2003-706 of 1 August 2003 Art. 46 III 32 Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

A Board of Supervisory Authorities of Financial Sector Businesses is hereby established. The said Board is composed of the Governor of the Bank of France, as chairman of the Banking Commission, the chairman of the Insurance and Mutual Societies Supervisory Authority, and the chairman of the Financial Markets Authority, or their representatives. It is chaired by the Minister for the Economy or his representative.

The function of the Board of Supervisory Authorities is to facilitate information exchanges between the supervisory authorities of financial groups which are at the same time engaged in lending, investment and insurance activities, and to address any question of common interest relating to coordination of the control of the said groups.

The Board meets at least three times each year. It may also be consulted for an opinion by the Minister for the Economy, the Governor of the Bank of France, as chairman of the Banking Commission, the chairman of the Insurance and Mutual Societies Supervisory Authority and the chairman of the Financial Markets Authority on any question within its purview.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L632-1

(Act No. 2003-706 of 1 August 2003 Art. 19 II Official Journal of 2 August 2003)
(Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

The market undertakings and clearing houses of the regulated markets may communicate to their foreign counterparts and to the authorities which are the counterparts of the Financial Markets Authority the information they require to accomplish their respective missions in regard to access to, and organisation and security of, the markets, provided that those counterpart organisations are themselves subject to professional secrecy within a legislative framework which demands professional secrecy as rigorous as that required in France, and subject to reciprocity.

For market undertakings which organise transactions and for the clearing houses of the regulated markets that information covers the positions taken on the market, the guarantee or margin reserve deposits and their composition, and the margin calls, in the context of supervision of the risks assumed by the members.

The information received by the institutions referred to in the present article may only be used in accordance with the indications of the proper authority which provided it.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

CHAPTER III
Additional Supervision of Financial Conglomerates — Articles L633-1 to L633-14

SECTION I
Identification of Financial Conglomerates — Article L633-1

Article L633-1

(Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

The Banking Commission, the Insurance and Mutual Societies Supervisory Authority and the Financial Markets Authority, in conjunction, when appropriate, with the supervisory authorities of the regulated entities of the EU Member States or other European Economic Area Member States, identify the groups requiring the additional supervision applicable to financial conglomerates and exchange for that purpose all the information that is necessary for accomplishment of their respective duties.

When a group has been identified as a financial conglomerate and the Banking Commission is designated as the coordinator of the additional supervision pursuant to the provisions of Article L. 633-2, it informs the group's leading entity thereof, or, failing that, the regulated entity which posts the highest balance sheet total in the group's most important financial sector. It also informs the proper authorities who approved the group's regulated entities and the proper authorities of the EU Member State or other European Economic Area Member State in which the mixed financial holding company has its registered office, as well as the European Commission.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION II
Appointment of the Coordinator — Article L633-2

Article L633-2

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

I. - The coordinator is the proper authority responsible for the coordination and provision of the additional supervision. It may determine, after consulting the proper authorities concerned and the financial conglomerate, the method to be used to calculate the additional requirements in regard to adequacy of the equity capital, and decide not to include any particular entity in the calculation parameters of the additional requirements in regard to adequacy of the equity capital in certain cases determined by the regulations.

II. - The coordinator is the proper authority of one of the European Economic Area Member States and meets criteria determined by the regulations.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION III
The Coordinator's Role — Article L633-3

Article L633-3

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

When it is designated as coordinator, the Banking Commission is responsible, in regard to the additional supervision, for:

a) Coordination of the collection and dissemination of all information relating to the normal course of business and to emergency situations and, in particular, any important information relevant to the prudential supervision exercised by a proper authority by virtue of the sectoral rules;

b) Prudential supervision and assessment of a financial conglomerate's financial situation;

c) Assessment of the application of the rules relating to adequacy of the equity capital, risk exposure and transactions between the different entities within the conglomerate pursuant to the provisions of Article L. 517-8;

d) Assessment of the financial conglomerate's structure, organisation and internal auditing facilities;

e) Planning and coordination of the prudential activities, in cooperation with the proper authorities concerned.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION IV

Article L633-4

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

When the coordinator of a financial conglomerate is an authority of another EU Member State or European Economic Area Member State, it performs the assignments indicated in Article L. 633-3 in regard to the entities established in France.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L633-5

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

To facilitate provision of the additional supervision, the Banking Commission enters into coordination agreements with the proper authorities concerned, and, when necessary, with any other interested authority. The said agreements are published in the Official Journal of the French Republic. The may entrust additional assignments to the coordinator and stipulate the procedures to be followed for the additional supervision. They may also specify the coordination arrangements for any other interested authorities.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L633-6

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

The Banking Commission and, when necessary, the Financial Markets Authority, cooperate with the proper authorities responsible for supervising the regulated entities belonging to a financial conglomerate and, when the latter do not do so, the coordinator. The implementing provisions of the present article are determined by the regulations.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L633-7

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

In the performance or their respective duties, the proper authorities may exchange information relating to the regulated entities belonging to a financial conglomerate with the central banks of the EU Member States or other European Economic Area Member States, the European System of Central Banks and the European Central Bank.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION V

Article L633-8

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

Articles L. 613-8 to L. 613-10 apply to all entities located in an EU Member State or another European Economic Area Member State, regulated or otherwise, which belong to a financial conglomerate having the Banking Commission as its coordinator.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L633-9

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

Notwithstanding Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural persons or legal entities, any entity established in France which belongs to a financial conglomerate having an authority of an EU Member State or another European Economic Area Member State as its coordinator is required to send the coordinator, at its request, any information relevant to the additional supervision.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L633-10

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

When the proper authorities of an EU Member State or another European Economic Area Member State wish, in specific cases, to verify the information relating to an entity established in France, regulated or otherwise, belonging to a financial conglomerate and referred to in Article L. 613-10, they ask the Banking Commission or, if applicable, the Financial Markets Authority, to have such verification carried out.

The Banking Commission or, if applicable, the Financial Markets Authority, initiates the said verification by carrying it out itself, by allowing the authority which made the request to carry it out, or by allowing an auditor or an expert to do so.

When it does not carry out the verification itself, the proper authority which made the request may participate therein if it so wishes.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L633-11

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

For the purposes of the additional supervision provided for in the present chapter, the Banking Commission may enter into the agreements referred to in Article L. 613-13 with the proper authorities of a State which is not a party to the European Economic Area Agreement in order to ensure supervision of any entity belonging to a financial conglomerate.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION VI

Execution Measures — Articles L633-12 to L633-13

Article L633-12

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

I. - If the Banking Commission, when it is designated as coordinator, notes that the regulated entities of a financial conglomerate are meeting the requirements laid down in Article L. 517-8 but their solvency could nevertheless be compromised, or that the transactions between the group's entities or the risk exposure jeopardise the said regulated entities' financial situation, it may implement the powers it holds by virtue of Section IV of Chapter III of Part I of Book VI of the present code against the mixed financial holding company.

II. - If the Banking Commission, when it is designated as coordinator, notes that one or more regulated entities or a mixed financial holding company of a financial conglomerate are not meeting the requirements laid down in Article L. 517-8 or Article L. 517-9, or have not complied with a recommendation, or have disregarded a warning, or failed to meet any specific condition imposed or commitment made by virtue of the additional supervision, or have not complied with an injunction, it may take the following measures against the mixed financial holding company:

1 Imposition of the penalties stipulated in 1, 2, 4 and 5 of Article L. 613-21, I;

2 Imposition, either in place of, or in addition to, those penalties, of a financial penalty of an amount commensurate with the seriousness of the breaches committed which shall not exceed the higher of the two following amounts:

3% of the net turnover realised in the previous accounting period, calculated over a twelve-month period, by a regulated entity of an insurance-sector subsidiary of the mixed financial holding company having achieved the highest turnover. This ceiling is increased to 5% in the event of any further violation of the same obligation;

The minimum capital which a regulated-entity subsidiary of a mixed financial holding company in the banking and insurance services sector is required to have. When the financial holding company has several subsidiaries which are regulated entities, the ceiling for the fine is determined in reference to the capital of the regulated entity in that sector having the highest obligatory minimum capital;

3 The Banking Commission may decide that the penalties imposed by reason of the present article shall be published at the expense of the legal entity penalised in whatever journals or publications the commission designates.

The Banking Commission shall inform the financial conglomerate's regulated entities' sectoral authorities of its findings.

III. - The relevant sectoral authorities, including the Banking Commission, may use the powers to impose penalties conferred on them for the sectoral supervision of the regulated entities whose additional supervision is entrusted to them.

IV. - When the coordinator is a proper authority of another EU Member State or European Economic Area Member State, it may impose on a mixed financial holding company having its registered office in France the penalties stipulated in the present article or the measures imposed by its own national law.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L633-13

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

If a regulated entity uses its membership of a financial conglomerate to totally or partially elude application of the sectoral rules applicable to it, the Banking Commission may use the powers referred to in sections IV and V of Chapter III of Part I of Book VI.

If a regulated entity referred to in the previous paragraph is an investment firm, the Financial Markets Authority may, without prejudice to the Banking Commission's powers, use the powers referred to in subsections 3, 4 and 5 of the sole Chapter of Part II of Book VI.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

SECTION VII

Parent Companies Having their Registered Office outside the European Economic Area — Article L633-14

Article L633-14

(inserted by Order No. 2004-1201 of 12 November 2004 Art. 12 Official Journal of 16 November 2004)

When the registered office of the parent company of regulated entities in a group which conducts business in both the banking and investment services sector and the insurance sector is in a State which is not a member of the EU or the European Economic Area, the Banking Commission, when it acts as coordinator pursuant to Article L. 334-9, verifies, on its own initiative or at the request of the parent company or a regulated entity approved in an EU Member State or another European Economic Area Member State, that such regulated entities are subject to additional supervision by a proper authority of the third country equivalent to that required under the present subsection. The said authority shall consult the proper authorities concerned.

If no equivalent consolidated supervision exists, the proper authorities concerned shall appoint a coordinator and apply the provisions relating to additional supervision to those regulated entities in the same way.

In order to apply additional supervision to regulated entities belonging to a financial conglomerate whose parent company has its registered office in a State outside the European Economic Area, the proper authorities concerned may also apply any other methods they consider appropriate. Such methods must have been validated by the Banking Commission when it acts as coordinator pursuant to Article L. 334-9, after consulting the other authorities concerned. The proper authorities concerned may also require the creation of a mixed financial holding company having its registered office in an EU Member State or another European Economic Area Member State and apply the provisions relating to additional supervision to the regulated entities of the financial conglomerate headed up by that mixed financial holding company. The methods referred to in the present paragraph are notified to the proper authorities concerned and to the European Commission.

NB: Order 2004-1201 Art. 20: "The provisions of the present order shall apply with effect from the audit of the accounts for the period commencing 1 January 2005 or during that year".

Article L641-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any person participating in the deliberations or activities of the Credit institutions and Investment Companies Committee who violates the professional secrecy instituted by Article L. 612-6 shall incur the penalties imposed by Article 226-13 of the Penal Code, without prejudice to the provisions of Article 226-14 of the Penal Code.

Article L641-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Any person participating in the supervision of credit institutions or investment companies, as provided for in Chapter III of Part I of the present Book, who violates the professional secrecy instituted by Article L. 613-20 shall incur the penalties imposed by Article 226-13 of the Penal Code, without prejudice to the provisions of Article 226-14 of the Penal Code.

Article L642-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 21 I, II, Article 48 II 7, Official Journal of 2 August 2003)

The penalties imposed by Article 226-13 of the Penal Code also apply in the event of any member, staff member or employee of the Financial Markets Authority, or any expert appointed to a consultative committee referred to in III of Article L. 621-2, violating the professional secrecy instituted by Article L. 621-4, without prejudice to the provisions of Article 226-14 of the Penal Code.

Article L642-2

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2003-706 of 1 August 2003 Article 21 I, III, Article 48 II 7, Official Journal of 2 August 2003)

The fact of any person obstructing an inspection or investigation of the Financial Markets Authority carried out as determined in Articles L. 621-9 to L. 621-9-2, or providing inaccurate information in connection with therewith, shall incur

a penalty of two years' imprisonment and a fine of 300,000 euros.

Article L642-3
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 3, Official Journal of 22 September 2002 effective 1 January 2002)
(Act No. 2003-706 of 1 August 2003 Article 21 I, IV, Article 48 II 7, Official Journal of 2 August 2003)

The fact of any person obstructing sequestration measures or not respecting a temporary prohibition on professional activity imposed pursuant to Article L. 621-13 shall incur a penalty of two years' imprisonment and a fine of 300,000 euros.

The fact of any person not consigning the sum determined by the judge pursuant to Article L. 621-13 within forty-eight hours of the date on which the decision became enforceable shall incur a penalty of two years' imprisonment and a fine of 75,000 euros.

BOOK VII
Overseas Territorial Authorities — Articles L711-1 to L766-8

Part I
Provisions Common to Several Territorial Authorities — Articles L711-1 to L712-5

CHAPTER I
Provisions applicable in the Overseas Departments, Mayotte and Saint-Pierre-et-Miquelon — Articles L711-1 to L711-13

SECTION I
Banknotes and Metallic Coins — Article L711-1

Article L711-1
(Order No. 2005-429 of 6 May 2005 Art. 85, Art. 86 II Official Journal of 7 May 2005)

Banknotes and metallic coins which are legal tender in Metropolitan France are legal tender in the Departments of Guadeloupe, French Guiana, Martinique and Réunion and also in Mayotte and Saint Pierre and Miquelon. Banknotes are issued by the Bank of France as provided for in Articles L. 122-1 and L. 141-5. Metallic coins are put into circulation as determined in Article L. 711-3.

SECTION II
The Issuing Institution of the Overseas Departments — Articles L711-2 to L711-12

Article L711-2
(Order No. 2005-429 of 6 May 2005 Art. 85, Art. 87 I Official Journal of 7 May 2005)

In the territorial authorities referred to in Article L. 711-1, the Bank of France, by virtue of its participation in the European System of Central Banks, carries out the missions entrusted to it by Articles L. 122-1 and L. 141-1 to L. 141-5.

Transactions pertaining to those missions in the aforementioned departments and authorities are carried out by a national public institution known as the Issuing Institution of the Overseas Departments acting for and on behalf of, and under the authority of, the Bank of France.

Article L711-3
(Order No. 2005-429 of 6 May 2005 Art. 85, Art. 87 II Official Journal of 7 May 2005)

The Issuing Institution of the Overseas Departments is, moreover, responsible, in its operational zone consisting of the territorial authorities referred to in Article L. 711-1 for:

1. Putting metallic coins in circulation and exercising the public interest functions entrusted to it by the State; agreements entered into between the State and the Issuing Institution define the nature of those services and the terms and conditions of their remuneration;

2. Providing all surveys and other services to third parties, with the agreement of the Bank of France.

Article L711-4
(Order No. 2005-429 of 6 May 2005 Art. 85, Art. 87 I Official Journal of 7 May 2005)

I. - In order to carry out the missions referred to in Article L. 711-2, credit institutions established in the form of a branch, or having their registered office, in the territorial authorities referred to in Article L. 711-1 open accounts with the Bank of France. The said accounts are held by the Issuing Institution of the Overseas Departments acting for and on behalf of the Bank of France.

II. - To enable its other missions to be carried out, the Trésor public, the Post Office and the credit institutions referred to in Article L. 511-1 may hold accounts with the Issuing Institution. The Issuing Institution may make transfers of funds between Metropolitan France and its operational zone.

Article L711-5
(Order No. 2005-429 of 6 May 2005 Art. 85 Official Journal of 7 May 2005)

The Issuing Institution of the Overseas Departments is administered by a Supervisory Board composed of fifteen members:

1. The Governor of the Bank of France or his representative, as chairman;

2. Seven representatives of the Bank of France, appointed for four years by its Governor;

3. Six prominent individuals, chosen on account of their recognised expertise in the overseas monetary, financial or economic fields, who are appointed for four years by the Minister for the Economy and the Minister for the Overseas Departments and Territories, acting jointly;

4. A representative of the Issuing Institution's staff, elected for four years in accordance with the articles of association.

In the event of the deliberations resulting in a hung vote, the chairman has a casting vote.

Two representatives of the State, one appointed by the Minister for the Economy and the other by the Minister for the Overseas Departments and Territories, may participate in council meetings as observers without the right of discussion and vote.

A deputy may be appointed on the same basis as the incumbent for the members other than the chairman and for the representatives of the State.

The Issuing Institution's articles of association determine the circumstances in which the Supervisory Board may deliberate by means of written consultation in the event of an emergency duly declared by the chairman.

Article L711-6

(Order No. 2005-429 of 6 May 2005 Art. 85 Official Journal of 7 May 2005)

The general manager of the Issuing Institution of the Overseas Departments is appointed by the chairman of its Supervisory Board. He manages that institution under the said board's supervision. For execution of the missions referred to in Article L. 711-2, however, he acts under the instructions of its chairman.

Article L711-7

(Order No. 2005-429 of 6 May 2005 Art. 85 Official Journal of 7 May 2005)

The transactions of the Issuing Institution of the Overseas Departments are governed by the civil and commercial legislation.

Article L711-8

(Order No. 2005-429 of 6 May 2005 Art. 85, Art. 86 II Official Journal of 7 May 2005)

In the departments of Guadeloupe, French Guiana, Martinique and Réunion, and also in Mayotte and Saint Pierre and Miquelon, the Issuing Institution of the Overseas Departments performs the functions devolved upon it by Articles L. 131-85 and L. 131-86 in conjunction with the Bank of France.

Article L711-9

(Order No. 2005-429 of 6 May 2005 Art. 85 Official Journal of 7 May 2005)

The procedures for presenting and approving the accounts of the Issuing Institution of the Overseas Departments are identical to those laid down for the Bank of France pursuant to Article L. 144-4.

The Supervisory Board appoints two auditors responsible for auditing the Issuing Institution's accounts. They are invited to the Supervisory Board's meeting which approves the accounts for the previous accounting period.

The Issuing Institution's accounts are consolidated with those of the Bank of France.

Article L711-10

(Order No. 2005-429 of 6 May 2005 Art. 85 Official Journal of 7 May 2005)

The Issuing Institution of the Overseas Departments receives an allocation from the State.

Article L711-11

(Order No. 2005-429 of 6 May 2005 Art. 85 Official Journal of 7 May 2005)

The personnel seconded to the Issuing Institution of the Overseas Departments by the French Development Agency remain governed by the provisions applicable to them in their original institution. The Issuing Institution's staff who are not seconded by the said agency are subject to the normal employment legislation.

Article L711-12

(Order No. 2005-429 of 6 May 2005 Art. 85 Official Journal of 7 May 2005)

The operational procedures and articles of association of the Issuing Institution of the Overseas Departments are determined in a Conseil d'Etat decree.

SECTION III

Provisions applicable to the Euro in Mayotte and Saint Pierre and Miquelon Article L711-13

Article L711-13

(Order No. 2001-766 of 29 August 2001 Art. 13 Official Journal of 31 August 2001)
(Order No. 2005-429 of 6 May 2005 Art. 88 I Official Journal of 7 May 2005)
(Order No. 2005-429 of 6 May 2005 Art. 88 II Official Journal of 7 May 2005)

The currency in Mayotte and in Saint Pierre and Miquelon is the euro.

A euro is divided into one hundred cents.

CHAPTER II

Article L712-1
(Order No. 2005-429 of 6 May 2005 Art. 89 Official Journal of 7 May 2005)
Banknotes and metallic coins denominated in CFP francs are legal tender in New Caledonia, French Polynesia and the Wallis and Futuna Islands.

Article L712-2
(Order No. 2005-429 of 6 May 2005 Art. 89 Official Journal of 7 May 2005)
In New Caledonia, French Polynesia and the Wallis and Futuna Islands, France shall retain monetary issuing privileges pursuant to the terms established by its national legislation. It alone is authorised to determine the parity of the CFP franc.

Article L712-3
(Order No. 2005-429 of 6 May 2005 Art. 89 Official Journal of 7 May 2005)
The monetary issuing service in New Caledonia, French Polynesia and the Wallis and Futuna Islands is provided by the Overseas Issuing Institution, the status of which is determined in Article L. 712-4.

Article L712-4
(Order No. 2005-429 of 6 May 2005 Art. 89, Art. 91 I Official Journal of 7 May 2005)
The Overseas Issuing Institution is a public institution. Its articles of association are determined in a Conseil d'Etat decree.
The transactions executed by the said institution include the discounting of short- and medium-term credits and transfers effected between New Caledonia, French Polynesia, the Wallis and Futuna Islands and Metropolitan France.
The Overseas Issuing Institution's net profit after allocations to reserves is credited to the general budget.

Article L712-4-1
(Order No. 2004-824 of 19 August 2004 Art. 2 Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 89 Official Journal of 7 May 2005)
In New Caledonia and the Wallis and Futuna Islands the Overseas Issuing Institution performs the functions relating to private overindebtedness which are assigned to the Bank of France in Metropolitan France. An agreement signed between the State and the Issuing Institution lays down the conditions under which those functions are performed and the terms and conditions of their remuneration.
The Issuing Institution is released from professional secrecy when performing such duties.

Article L712-5
(Act No. 2001-1062 of 15 November 2001 Art. 71 V Official Journal of 16 November 2001)
(Order No. 2005-429 of 6 May 2005 Art. 89 Official Journal of 7 May 2005)
In New Caledonia, French Polynesia and the Wallis and Futuna Islands, the Overseas Issuing Institution, in conjunction with the Bank of France, provides centralisation of all instances of non-payment and the information which facilitates identification of all the accounts held by the persons referred to in Article L. 131-72 and in the second paragraph of Article L. 163-6.
The Overseas Issuing Institution, in conjunction with the Bank of France, ensures the security of the means of payment as defined in Article L. 311-3, other than fiduciary currency, and the relevance of the rules applicable thereto. If it considers that a means of payment offers insufficient guarantees of security, it may recommend that its issuer take all necessary measures to remedy it. If such recommendations are not followed, it may, having obtained the issuer's observations, decide to publish an adverse opinion in the Official Journal.
In performing such missions, the Overseas Issuing Institution makes the necessary assessments or asks the Bank of France to do so and requests the issuer or any other party involved to send it the relevant information concerning the means of payment and the terminals or technical facilities associated therewith.

Article L721-1

(Order No. 2005-429 of 6 May 2005 Art. 86, Art. 92 Official Journal of 7 May 2005)

Article L. 112-7 is not applicable in Saint Pierre and Miquelon.

In Article L. 131-71, the sentence: "The tax authorities may, at any time, request communication of the identity of the persons to whom forms which do not meet this specification are issued, along with the numbers of those forms." is not applicable in Saint Pierre and Miquelon.

Article L721-2

(Order No. 2000-916 of 19 September 2000 Art. 1 I Official Journal of 22 September 2002 effective 1 January 2002)
(Order No. 2005-429 of 6 May 2005 Art. 86, Art. 93 Official Journal of 7 May 2005)

In Saint Pierre and Miquelon, natural persons must declare the sums or securities that they transfer abroad or from abroad without going through an institution subject to the provisions of Part I of Book V or of Article L. 518-1.

A declaration is made for each transfer, excluding transfers of an amount below 7,600 euros.

The present article's implementing regulations are determined in a Conseil d'Etat decree.

Article L721-3

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 12 Official Journal of 20 January 2006)

I. - Failure to discharge the obligations imposed by Article L. 721-2 shall incur a fine equal to one quarter of the sum to which the offence or attempted offence relates.

II. - In the event of customs officers discovering an offence covered by I, they shall confiscate the entire sum to which the offence or attempted offence relates for a period of three months, which period may be renewed with authorisation from the Public Prosecutor having jurisdiction within the territory, subject to a total limit of six months.

The sum confiscated is duly attached, and forfeiture thereof may be pronounced by the competent court if, during the period of confiscation, it is established that the perpetrator of the offence referred to in I is or was in possession of objects which give grounds for believing that he is or was the perpetrator of one or more offences envisaged and rendered illegal by the Customs Code applicable to Saint Pierre and Miquelon, or that he is participating in or has participated in the commission of such offences or, if there are plausible grounds for believing that the perpetrator of the offence referred to in I has committed one or more offences envisaged and rendered illegal by the Customs Code applicable to Saint Pierre and Miquelon or that he has participated in the commission of such offences.

Dismissal of the charges or acquittal and discharge automatically entails the lifting of the confiscation and attachment measures imposed, with the Trésor public meeting the cost thereof. The same applies in the event of termination of an action seeking application of tax penalties.

III. - Detection, recording and prosecution of the offences referred to in I take place as determined in the Customs Code applicable to Saint Pierre and Miquelon.

Article L721-4

(Order No. 2005-429 of 6 May 2005 Art. 86, Art. 95 I Official Journal of 7 May 2005)

The provisions of Articles L. 721-2 and L. 721-3 do not apply to financial dealings between Saint Pierre and Miquelon on the one hand, and Metropolitan France, Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, the Wallis and Futuna Islands, New Caledonia and French Polynesia, on the other.

Article L722-1

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

Article L. 214-41 is not applicable in Saint Pierre and Miquelon.

Article L722-2

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

Articles L. 221-1 to L. 221-28 are not applicable in Saint Pierre and Miquelon.

Article L722-3

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

Article L. 222-1 is not applicable in Saint Pierre and Miquelon.

Article L723-1

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

The second and fourth paragraphs of Article L. 312-3 and Article L. 312-17 are not applicable in Saint Pierre and Miquelon.

Article L724-1

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

Articles L. 432-6 to L. 432-19 are not applicable in Saint Pierre and Miquelon.

Article L725-1

(Order No. 2005-429 of 6 May 2005 Art. 86, Art. 96 Official Journal of 7 May 2005)

Articles L. 511-12 and L. 511-21 to L. 511-28 are not applicable in Saint Pierre and Miquelon.

Article L725-2

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

Article L. 531-3 and Articles L. 532-16 to L. 532-27 are not applicable in Saint Pierre and Miquelon.

In Article L. 532-5, the words "and benefit from the provisions of Articles L. 422-1 and L. 532-23 to L. 532-26" are not applicable in Saint Pierre and Miquelon.

Article L725-3

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 6 II, III Official Journal of 20 January 2006)

The fiscal provisions referred to in Article L. 563-2 and likewise Articles L. 152-4 and L. 161-1 are not applicable in Saint Pierre and Miquelon.

The references to articles of the General Tax Code in Article L. 563-2 are replaced, for Saint Pierre and Miquelon, by a reference to the provisions of the General Council having the same object.

For application of Article L. 562-1, references to the Insurance Code, the Social Security Code, the Rural Code and the Mutuality Code are replaced by references to the provisions applicable locally having the same object.

When, pursuant to Article 16 of Act No. 71-1130 of 31 December 1971, the number of advocates registered at the bar does not permit a council of the order to be elected, the advocate makes the declaration referred to in Article L. 562-2 directly to the department created by Article L. 562-43.

Article L726-1

(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

The second and third paragraphs of Article L. 612-2 and likewise the last sentence of Article L. 612-6 are not applicable in Saint Pierre and Miquelon.

Article L726-2

(Order No. 2004-1127 of 21 October 2004 Art. 2 1 Official Journal of 22 October 2004)
(Order No. 2005-429 of 6 May 2005 Art. 86 Official Journal of 7 May 2005)

Articles L. 613-12 to L. 613-14, L. 613-31-1 to L. 613-31-10 and L. 613-33 are not applicable in Saint Pierre and Miquelon.

Article L726-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

The second paragraph of Article L. 621-21 is not applicable in Saint-Pierre-et-Miquelon. In the first paragraph of that same article, the words "unless the request is made by an authority of another European Community Member State or of another European Economic Area Member State." are deleted.

NB: Act No. 2003-706 of 1 August 2003, Article 46 V 1 and 2:

1 All references to the Stock Exchange Commission, the Financial Markets Council and the Disciplinary Board for Financial Management are replaced with a reference to the Financial Markets Authority;

2 All references to the Stock Exchange Commission's Rules and the General Regulations of the Financial Markets Council are replaced with a reference to the General Regulations of the Financial Markets Authority.

Article L726-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 622-13 and L. 622-14 are not applicable in Saint-Pierre-et-Miquelon.

Article L731-1

(Act No. 2001-1062 of 15 November 2001 Art. 71 VI Official Journal of 16 November 2001)
(Order No. 2006-60 of 19 January 2006 Art. 10 II Official Journal of 20 January 2006)

Articles L. 131-1 to L. 131-87, with the exception of the second sentence of the third paragraph of Article L. 131-71, Articles L. 132-1 to L. 132-6, Article L. 133-1 and Articles L. 163-1 to L. 163-12 are applicable in Mayotte as provided for in a Conseil d'Etat decree.

In Mayotte, the Issuing Institution of the Overseas Departments, in conjunction with the Bank of France, provides centralisation of all instances of non-payment and the information which facilitates identification of all the accounts held by the persons referred to in Article L. 131-72 and the second paragraph of Article L. 163-6.

For application of the provisions of Article L. 133-1, the word "within" is replaced by the words "to or from".

Article L731-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 151-1 to L. 151-4 and Article L. 165-1 are applicable in Mayotte. Article L. 165-1 is amended as follows:

"Article L. 165-1. - Articles of the Customs Code applicable in Mayotte relating to Parts II and XII of the Customs Code are applicable to breaches of the obligations imposed by Article L. 151-2."

Decrees founded on the report from the Minister for the Overseas Departments and Territories and the Minister for the Economy determine the implementing legislation for Article L. 151-2 in Mayotte.

Subsection 2
Reporting Obligations — Article L731-3

Article L731-3

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 1 I, Official Journal of 22 September 2002 effective 1 January 2002)

In Mayotte, natural persons must declare the sums or securities that they transfer abroad or from abroad without going through an institution subject to the provisions of Part I of Book V or those of Article L. 518-1.

A declaration is made for each transfer, excluding transfers of an amount below 7,622.45 euros.

The implementing regulations for the present article are determined in a Conseil d'Etat decree.

Subsection 3
Detection and Prosecution of Offences — Articles L731-4 to L731-5

Article L731-4

(Order No. 2006-60 of 19 January 2006 Art. 12 Official Journal of 20 January 2006)

I. - Failure to discharge the obligations imposed by Article L. 731-3 shall incur a fine equal to one quarter of the sum to which the offence or attempted offence relates.

II. - In the event of customs officers discovering an offence referred to in I, they shall confiscate the entire sum to which the offence or attempted offence relates for a period of three months, which period may be renewed with authorisation from the Public Prosecutor having jurisdiction within the territory but shall not exceed a total period of six months.

The sum confiscated is duly attached, and forfeiture thereof may be pronounced by the competent court if, during the period of confiscation, it is established that the perpetrator of the offence referred to in I is or was in possession of objects which give grounds for thinking that he is or was the perpetrator of one or more offences envisaged and rendered illegal by the Customs Code applicable in Mayotte, or that he is participating or has participated in the commission of such offences, or if there are plausible reasons for thinking that the perpetrator of the offence referred to in I has committed one or more offences envisaged and rendered illegal by the Customs Code applicable in Mayotte or that he has participated in the commission of such offences.

Dismissal of the charges or acquittal and discharge automatically entails the lifting of the confiscation and attachment measures imposed, with the Trésor public meeting the cost thereof. The same applies in the event of extinction of an action seeking application of tax penalties.

III. - Detection, recording and prosecution of the offences referred to in I take place as determined in the Customs Code applicable in Mayotte.

Article L731-5

(Order No. 2005-429 of 6 May 2005 Art. 95 II Official Journal of 7 May 2005)

The provisions of Articles L. 731-3 and L. 731-4 do not apply to financial dealings between Mayotte on the one hand and Metropolitan France, Guadeloupe, French Guiana, Martinique, Réunion, Saint Pierre and Miquelon, the Wallis and Futuna Islands, New Caledonia and French Polynesia, on the other.

CHAPTER II
Products — Articles L732-1 to L732-8

SECTION I
Financial Instruments — Articles L732-1 to L732-7

Subsection 1
Definition and General Regulations — Article L732-1

Article L732-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 211-1 to L. 211-5 are applicable in Mayotte. The provisions of Article L. 211-4 are replaced with the following provisions:

"Article L. 211-4. - The securities of joint-stock companies, other than SICAVs, which are not admitted to trading on a regulated market must be entered in an account maintained by the issuing company at its premises in the name of the owner of the securities."

Subsection 2

Article L732-2

(Order No. 2004-604 of 24 June 2004 Art. 60 III Official Journal of 26 June 2004)

Articles L. 212-1, L. 212-2 and L. 212-4 to L. 212-7 are applicable in Mayotte.

Article L732-1

(Order No. 2005-429 of 6 May 2005 Art. 97 Official Journal of 7 May 2005)

(Order No. 2006-60 of 19 January 2006 Art. 1 II Official Journal of 20 January 2006)

Articles L. 211-1 to L. 211-6 are applicable in Mayotte.

Article L732-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 213-1 to L. 213-4 are applicable in Mayotte, with the exception of 5 of Article L. 213-3.

Article L732-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 213-5 and L. 213-6 and Article L. 231-1 are applicable in Mayotte.

Article L732-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 213-7 is applicable in Mayotte.

Article L732-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

In Mayotte, public-sector joint-stock companies may issue participating securities as provided for in Articles L. 228-36 and L. 228-37 of the Commercial Code.

Article L732-7

(Order No. 2004-823 of 19 August 2004 Art. 4 II, Art. 11 II Official Journal of 21 August 2004)

(Order No. 2005-429 of 6 May 2005 Art. 98 I Official Journal of 7 May 2005)

(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Chapter IV of Part I of Book II is applicable in Mayotte, with the exception of 4 of I of Article L. 214-1, 4 of II of Article L. 214-34, Articles L. 214-39 to L. 214-41-1, Section 5 and Articles L. 214-85 to L. 214-88, without prejudice to the following amendment:

In Article L. 214-18, the words "the provisions of Order No. 45-2710 of 2 November 1945 relating to investment companies, and" are deleted.

Articles L. 231-3 to L. 231-21 are also applicable in Mayotte.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L732-8

(Order No. 2004-937 of 2 September 2004 Art. 2 Official Journal of 4 September 2004)

The rules relating to home-ownership savings plans are applicable in Mayotte as provided for in Article L. 371-4 of the Building and Housing Code. Articles L. 223-1 to L. 223-4 and likewise Articles L. 232-1 and L. 232-2 are applicable in Mayotte.

Article L733-1

(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 99 Official Journal of 7 May 2005)

Articles L. 311-1 to L. 311-3 are applicable in Mayotte.

Article L733-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter II of Part I of Book III is applicable in Mayotte, with the exception of the second and fourth paragraphs of Article L. 312-3, of Articles L. 312-18 and L. 312-17. Article L. 352-1 also applies there.

Article L733-3

(Order No. 2006-60 of 19 January 2006 Art. 3 III Official Journal of 20 January 2006)

Articles L. 313-1 to L. 313-5-2 are applicable in Mayotte. Article L. 351-1 also applies there.

Article L733-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-7 to L. 313-11 are applicable in Mayotte.

Article L733-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-12, L. 313-21 and L. 313-22 are applicable in Mayotte.

Article L733-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-23 to L. 313-41 are applicable in Mayotte.

Article L733-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-50 and L. 313-51 are applicable in Mayotte.

Article L733-8

(Order No. 2005-429 of 6 May 2005 Art. 100 Official Journal of 7 May 2005)

Part II of Book III is applicable in Mayotte. In Article L. 322-2, the reference to Articles L. 312-17 and L. 312-18 is deleted.

Article L733-9

(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)

Articles L. 330-1 and L. 330-2 are applicable in Mayotte, but in the first paragraph of I of Article L. 330-1, the words "or international" and "or a non-resident institution having comparable status" are deleted, as are the second sentence of the second paragraph and the entire third paragraph.

Article L733-10

(Order No. 2004-823 of 19 August 2004 Art. 10 II Official Journal of 21 August 2004)

I. - Articles L. 341-1 to L. 341-17 are applicable in Mayotte with the following amendments:

a) In 2 of Article L. 341-2, the words "referred to in Section 3 of Chapter I of Part V of Book IV of the Planning Code" are deleted;

b) In 1 of Article L. 341-3, the words "the venture capital companies referred to in Article 1-1 of Act No. 85-695 of 11 July 1985 containing various provisions of an economic and financial nature, in relation to subscriptions to the securities they issue, as well as the equivalent institutions and companies approved in another European Community Member State and authorised to trade in France" are deleted; 2 of that same article is deleted;

c) In 4 of Article L. 341-10, the words "securities issued by the venture capital companies referred to in Article 1-1 of the aforementioned Act No. 85-695 of 11 July 1985 and products offered within the framework of Part IV of Book IV of the Labour Code" are deleted.

II. - Articles L. 353-1 to L. 353-4 are also applicable in Mayotte.

Article L733-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part IV of Book III and Article L. 353-6 are applicable in Mayotte.

Article L734-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 411-1 and L. 411-2 are applicable in Mayotte.

Article L734-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 412-1, with the exception of its last paragraph, and L. 412-2 are applicable in Mayotte.

Article L734-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter I of Part II of Book IV is applicable in Mayotte.

Articles L. 462-1 and L. 462-2 also apply there.

Article L734-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 423-1 is applicable in Mayotte.

Article L734-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 431-1 and L. 431-2 are applicable in Mayotte.

Article L734-6
(Order No. 2005-429 of 6 May 2005 Art. 101 Official Journal of 7 May 2005)
Articles L. 431-3 to L. 431-5 are applicable in Mayotte.

Article L734-7
(Order No. 2005-171 of 24 February 2005 Art. 6 II 1 Official Journal of 25 February 2005)
Articles L. 431-7 to L. 431-7-5 are applicable in Mayotte.

Article L734-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Article L. 432-5 is applicable in Mayotte.

Article L734-8-1
(inserted by Order No. 2006-60 of 19 January 2006 Art. 2 II 1 Official Journal of 20 January 2006)
I. - Articles L. 432-6, L. 432-7, L. 432-9, L. 432-10, L. 432-12 to L. 432-15 and L. 432-17 to L. 432-19 are applicable in Mayotte. The fiscal provisions of Articles L. 432-6, L. 432-7 and L. 432-13 are replaced by provisions of the General Tax Code having the same object applicable locally.
II. - The provisions of Articles L. 432-6, L. 432-7, L. 432-9 and L. 432-10 are likewise applicable to assignments with full title, by way of guarantee, of securities, certificates or bills referred to in I of Article L. 431-7-3 made in connection with financial futures transactions carried out on an over-the-counter market, the assignments of securities referred to in 3 of Article L. 432-6 and the assignments referred to in Article L. 330-2.

Article L734-9
(Order No. 2005-429 of 6 May 2005 Art. 103 I Official Journal of 7 May 2005)
Article L. 432-20 is applicable in Mayotte.

Article L734-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter III of Part III of Book IV is applicable in Mayotte.

Article L734-11
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 III, Official Journal of 12 December 2001)
Part IV of Book IV is applicable in Mayotte.
Articles L. 464-1, and L. 464-2 also apply there.

Article L734-12
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 465-1 to L. 465-3 are applicable in Mayotte.

Article L734-13
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 465-4 and L. 466-1 are applicable in Mayotte.

Article L735-1
(Order No. 2004-823 of 19 August 2004 Art. 3 III Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 104 I Official Journal of 7 May 2005)
(Order No. 2005-429 of 6 May 2005 Art. 104 II Official Journal of 7 May 2005)
Article L. 500-1, and likewise Articles L. 570-1 and L. 570-2, are applicable in Mayotte.

Article L735-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter I of Part I of Book V is applicable in Mayotte, with the exception of Articles L. 511-12, L. 511-21 to L. 511-28 and L. 511-34.
Articles L. 571-1 to L. 571-9 also apply there.

Article L735-1-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 104 I Official Journal of 7 May 2005)
Chapter 1 of Part I of Book V is applicable in Mayotte, with the exception of Articles L. 511-12, L. 511-21 to L. 511-28 and L. 511-34.
Articles L. 571-1 to L. 571-9 also apply there. In the last paragraph of Article L. 511-12-1, the words "or that rendered by the European Commission pursuant to Regulation (EEC) No. 4064/89 of the Council, of 21 December 1989, relating to the control of company merger operations" are deleted.

Article L735-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Article L. 515-1 is applicable in Mayotte.

Article L735-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 515-2 and L. 515-3 and Article L. 571-13 are applicable in Mayotte.

Article L735-4
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 515-4 to L. 515-12 are applicable in Mayotte.

Article L735-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 516-1 and L. 516-2 are applicable in Mayotte.

Article L735-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 517-1 and L. 571-14 are applicable in Mayotte.

Article L735-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 519-1 to L. 519-5 and Articles L. 571-15 and L. 571-16 are applicable in Mayotte.

Article L735-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 520-1 to L. 520-4 are applicable in Mayotte.
Articles L. 572-1 to L. 572-4 also apply there.

Article L735-9
(Order No. 2004-823 of 19 August 2004 Art. 10 II Official Journal of 21 August 2004)
Chapter 1 of Part 3 of Book V is applicable in Mayotte, with the exception of Article L. 531-3 and subject to the following amendments:
- in Article L. 531-2, the words "but without being entitled to claim the benefit of the provisions of Articles L. 422-1, L. 532-16 to L. 532-27 and the second and third paragraphs of Article L. 612-2" are deleted.

Article L735-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter II of Part III of Book V, with the exception of Articles L. 532-16 to, L. 532-27 is applicable in Mayotte. In Article L. 532-5, the words: "and benefit from the provisions of Articles L. 422-1 and L. 532-23 to L. 532-26" are deleted.

Article L735-11
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter III of Part III of Book V is applicable in Mayotte.
Articles L. 563-1 to L. 563-6 and L. 573-1 to L. 573-7 also apply there.

Article L735-11-1
(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 1 Official Journal of 21 August 2004)
Articles L. 541-1 to L. 541-7, and likewise Articles L. 573-9 to L. 573-11, are applicable in Mayotte.

Article L735-11-2
(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 1 Official Journal of 21 August 2004)
[Article L. 542-1 is applicable in Mayotte.

Article L735-11-2-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 105 I Official Journal of 7 May 2005)

Article L. 543-1 is applicable in Mayotte, subject to deletion of the words "the management companies of the forestry-linked savings associations".

Article L735-11-3

(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 1 Official Journal of 21 August 2004)

Articles L. 544-1 to L. 544-4 are applicable in Mayotte.

SECTION V
Miscellaneous Property Intermediaries — Article L735-12

Article L735-12

(Order No. 2004-823 of 19 August 2004 Art. 6 II 1 Official Journal of 21 August 2004)

Part V of Book V is applicable in Mayotte.

Article L. 573-8 also applies there.

SECTION VI
Obligations relating to the Prevention of Money Laundering — Article L735-13

Article L735-13

(Order No. 2004-823 of 19 August 2004 Art. 6 II 1 Official Journal of 21 August 2004)
(Order No. 2006-60 of 19 January 2006 Art. 6, Art. 9 Official Journal of 20 January 2006)

Part VI of Book V, with the exception of the fiscal provisions of Article L. 563-2, is applicable in Mayotte, and likewise Articles L. 574-1 and L. 574-2.

The references to Article 415 of the Customs Code are replaced by the reference to the provisions of the Customs Code applicable in Mayotte having the same object.

For application of Article L. 562-1, references to the Insurance Code, the Social Security Code, the Rural Code and the Mutuality Code are replaced by references to the provisions applicable locally having the same object.

When, pursuant to Article 16 of Act No. 71-1130 of 31 December 1971, the number of advocates registered at the bar does not permit a council of the order to be elected, the advocate makes the declaration referred to in Article L. 562-2 directly to the department created by Article L. 562-43.

The implementing provisions of Part IV of Book V for the persons referred to in 3, 3 bis and 4 of Article L. 562-1 are governed by Articles 7 and 8 of Order No. 2006-60 of 19 January 2006 updating and amending the economic and financial law applicable in Mayotte, New Caledonia, French Polynesia and the Wallis and Futuna Islands.

CHAPTER VI
Banking and Financial Authorities — Articles L736-1 to L736-8

SECTION I
Authorities Common to Credit institutions and Investment Companies — Articles L736-1 to L736-4

Subsection 1
The Banking and Finance Regulatory Committee — Article L736-1

Article L736-1

(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)

Chapter 1 of Part I of Book VI is applicable in Mayotte.

Subsection 2
The Credit institutions and Investment Companies Committee — Article L736-2

Article L736-2

(Order No. 2004-823 of 19 August 2004 Art. 2 II, Art. 3 IV Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 106 Official Journal of 7 May 2005)

Article L. 612-1, the first paragraph of Article L. 612-2, Articles L. 612-3 to L. 612-6, with the exception of the last sentence of the third paragraph of Article L. 612-6, and likewise Article L. 612-7, are applicable in Mayotte.

Article L. 641-1 also applies there.

Subsection 3
The Banking Commission — Article L736-3

Article L736-3

(Order No. 2004-1127 of 21 October 2004 Art. 2 2 Official Journal of 22 October 2004)

Chapter III of Part I of Book VI is applicable in Mayotte with the exception of Articles L. 613-12 to L. 613-14, L. 613-31-1 to L. 613-31-10 and L. 613-33.

Article L. 641-2 also applies there.

Article L736-4
(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 106 Official Journal of 7 May 2005)
Articles L. 614-1 to L. 614-3 are applicable in Mayotte subject to deletion, in Article L. 614-2, of the words "and any proposed Community regulation or directive, before it is examined by the Council of the European Communities,".

Article L736-5
(Order No. 2004-823 of 19 August 2004 Art. 1 II 1 Official Journal of 21 August 2004)
Part II of Book VI is applicable in Mayotte, with the exception of the second paragraph of Article L. 621-21. Articles L. 642-1 to L. 642-3 also apply there.

Article L736-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter II of Part II of Book VI, with the exception of Article L. 622-13, and Articles L. 642-4 and L. 642-5, are applicable in Mayotte.

Article L736-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter III of Part II of Book VI and Articles L. 642-6 and L. 642-7 are applicable in Mayotte.

Article L736-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 631-1, L. 631-2 and L. 632-1 are applicable in Mayotte.

Article L741-1
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 1 I, Official Journal of 22 September 2000 effective 1 January 2002)
Article L. 112-6 is applicable in New Caledonia. In I of that article, the words: "the sum of five thousand francs" are replaced with the words "the sum of 838 euros". In II, the words "the sum of three thousand francs" are replaced with the words "the sum of 502,80 euros".

Article L741-2
(Act No. 2001-1062 of 15 November 2001 Art. 71 VI Official Journal of 16 November 2001)
(Order No. 2006-60 of 19 January 2006 Art. 10 II Official Journal of 20 January 2006)
Articles L. 131-1 to L. 131-87, with the exception of the second sentence of the third paragraph of Article L. 131-71, Articles L. 132-1 to L. 132-6, Article L. 133-1 and L. 163-1 to L. 163-12 are applicable in New Caledonia as provided for in a Conseil d'Etat decree.

For application of the provisions of Article L. 133-1, the words "within" are replaced by the words "to or from".

Article L741-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 151-1 to L. 151-4 and Article L. 165-1 are applicable in New Caledonia.

Article L. 165-1 is amended as follows:

"Article L. 165-1. - Articles of the Customs Code in force in New Caledonia relating to Parts II and XII of the Customs Code are applicable to breaches of the obligations imposed by Article L. 151-2."

Decrees founded on the report from the Minister for the Overseas Departments and Territories and the Minister for the Economy determine the implementing legislation for Article L. 151-2.

Article L741-4

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 1 II, Official Journal of 22 September 2002 effective 1 January 2002)

In New Caledonia, natural persons must declare, as determined in a Conseil d'Etat decree, the sums, certificates or securities that they transfer abroad or from abroad without going through an institution subject to the provisions of Part I of Book V or of Article L. 518-1.

A declaration is made for each transfer, excluding transfers of an amount below 7,542 euros.

The implementing regulations for the present article are determined in a Conseil d'Etat decree.

Article L741-5

(Order No. 2006-60 of 19 January 2006 Art. 12 Official Journal of 20 January 2006)

I. - Failure to discharge the obligations imposed by Article L. 741-4 shall incur a fine equal to one quarter of the sum to which the offence or attempted offence relates.

II. - In the event of customs officers discovering an offence covered by I, they shall confiscate the entire sum to which the offence or attempted offence relates for a period of three months, which period may be renewed with authorisation from the Public Prosecutor having jurisdiction within the territory, subject to a total limit of six months.

The sum confiscated is duly attached, and forfeiture thereof may be pronounced by the competent court if, during the period of confiscation, it is established that the perpetrator of the offence referred to in I is or was in possession of objects which give grounds for thinking that he is or was the perpetrator of one or more offences envisaged and rendered illegal by the Customs Code applicable in New Caledonia, or that he is participating or has participated in the commission of such offences, or if there are plausible reasons for thinking that the perpetrator of the offence referred to in I has committed one or more offences envisaged and rendered illegal by the Customs Code applicable in New Caledonia or that he has participated in the commission of such offences.

Dismissal of the charges or acquittal and discharge automatically entails the lifting of the confiscation and attachment measures imposed, with the Trésor public meeting the cost thereof. The same applies in the event of extinction of an action seeking application of tax penalties.

III. - Detection, recording and prosecution of the offences referred to in I take place as determined in the Customs Code applicable in New Caledonia.

Article L741-6

(Order No. 2005-429 of 6 May 2005 Art. 95 III Official Journal of 7 May 2005)

The provisions of Articles L. 741-4 and L. 741-5 do not apply to financial dealings between New Caledonia on the one hand, and Metropolitan France, Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint Pierre and Miquelon, the Wallis and Futuna Islands and French Polynesia, on the other.

Article L742-1

(Order No. 2005-429 of 6 May 2005 Art. 97 Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 1 II Official Journal of 20 January 2006)

Articles L. 211-1 to L. 212-6 are applicable to New Caledonia.

Article L742-2

(Order No. 2004-604 of 24 June 2004 Art. 61 II Official Journal of 26 June 2004)

Articles L. 212-1, L. 212-2 and L. 212-4 to L. 212-7 are applicable in New Caledonia.

Article L742-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 213-1 to L. 213-4 are applicable in New Caledonia, with the exception of 5 of Article L. 213-3.

Article L742-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 213-5 and L. 213-6 and Article L. 231-1 are applicable in New Caledonia.

Article L742-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 213-7 is applicable in New Caledonia.

Article L742-6

(Order No. 2004-823 of 19 August 2004 Art. 4 II, Art. 11 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 98 II Official Journal of 7 May 2005)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Chapter IV of Part I of Book II is applicable in New Caledonia, with the exception of 4 of I of Article L. 214-1, 4 of II of Article L. 214-34, Articles L. 214-39 to L. 214-41-1, Section 5 and Articles L. 214-85 to L. 214-88, subject to the following amendment:

In Article L. 214-18, the words "the provisions of Order No. 45-2710 of 2 November 1945 relating to investment companies, and" are deleted.

Articles L. 231-3 to L. 231-21 are also applicable in New Caledonia.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L742-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 223-1 to L. 223-4 and Articles L. 232-1 and L. 232-2 are applicable in New Caledonia.

Article L743-1

(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 99 Official Journal of 7 May 2005)

Articles L. 311-1 to L. 311-3 are applicable in New Caledonia.

Article L743-2

(Order No. 2004-729 of 22 July 2004 Art. 1 I Official Journal of 24 July 2004)
(Order No. 2006-60 of 19 January 2006 Art. 3 II Official Journal of 20 January 2006)

Chapter II of Part I of Book III is applicable in New Caledonia, with the exception of the second and fourth paragraphs of Article L. 312-3 and des Articles L. 312-17 and L. 312-18. Article L. 352-1 also apply there.

The first paragraph of II of Article L. 312-1-2 is replaced with the following provisions: "Agents of the Overseas Issuing Institution are authorised, in the performance of their duties, to seek to uncover offences against the provisions of I of Article L. 312-1-1 and I of Article L. 312-1-2 and record them in a statement of offence".

Article L. 312-1 is applicable in New Caledonia. In the first three paragraphs of the said article, the words "financial services departments of the Post Office" are replaced by the words "financial services departments of the Postal and Telecommunications Office".

In the pre-January 2006 version of Articles L. 312-1 and L. 312-1-1, which remains in force in New Caledonia and French Polynesia, the words "financial services of the Post Office" are replaced by the words "financial services departments of the Postal and Telecommunications Office".

Article L743-3

(Order No. 2006-60 of 19 January 2006 Art. 3 III Official Journal of 20 January 2006)

Articles L. 313-1 to L. 313-5-2 are applicable in New Caledonia. Article L. 351-1 also applies there.

Article L743-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-7 to L. 313-11 are applicable in New Caledonia.

Article L743-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-12, L. 313-21 and L. 313-22 are applicable in New Caledonia.

Article L743-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-23 to L. 313-41 are applicable in New Caledonia.

Article L743-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-50 and L. 313-51 are applicable in New Caledonia.

Article L743-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Part II of Book III is applicable in New Caledonia subject to the following amendment: in Article L. 322-2 the reference to Articles L. 312-17 and L. 312-18 is deleted.

Article L743-9

(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)

Articles L. 330-1 and L. 330-2 are applicable in New Caledonia, but in the first paragraph of I of Article L. 330-1, the words "or international" and "or a non-resident institution having comparable status" are deleted, as are the second sentence of the second paragraph and the entire third paragraph.

Article L743-10

(Order No. 2004-823 of 19 August 2004 Art. 10 II Official Journal of 21 August 2004)

I. - Articles L. 341-1 to L. 341-17 are applicable in New Caledonia with the following amendments:

a) In 2 of Article L. 341-2, the words "referred to in Section 3 of Chapter 1 of Part V of Book IV of the Planning Code" are deleted;

b) 1 of Article L. 341-3 is replaced with the following provisions:

1 The credit institutions referred to in Article L. 511-1, the institutions referred to in Article L. 518-1 and the investment firms referred to in Article L. 531-4; 2 of that same article is deleted;

The credit institutions referred to in Article L. 511-1, the institutions referred to in Article L. 518-1, the investment firms and the insurance companies indicated.

c) In the first paragraph of Article L. 341-6, the words "and the Insurance Companies Committee" are deleted;

d) In Article L. 341-7, the words "and the Insurance Companies Committee" are deleted;

e) In Article L. 341-17, the words "and in Article L. 310-18 of the Insurance Code" are deleted.

II. - Articles L. 353-1 to L. 353-4 are also applicable in New Caledonia.

Article L743-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part IV of Book III and Article L. 353-6 are applicable in New Caledonia.

Article L744-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 411-1 and L. 411-2 are applicable in New Caledonia.

Article L744-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 412-1, with the exception of its last paragraph, and L. 412-2 are applicable in New Caledonia.

Article L744-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter I of Part II of Book IV is applicable in New Caledonia.

Articles L. 462-1 and L. 462-2 also apply there.

Article L744-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 423-1 is applicable in New Caledonia.

SECTION III
Trading of Financial Instruments — Articles L744-5 to L744-10

Subsection 1
General Provisions — Articles L744-5 to L744-7

Paragraph 1
Transfer of title and Pledging — Articles L744-5 to L744-6

Article L744-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 431-1 to L. 431-3 are applicable in New Caledonia.

Article L744-6

(Order No. 2005-429 of 6 May 2005 Art. 101 Official Journal of 7 May 2005)

Articles L. 431-4 to L. 431-5 are applicable in New Caledonia.

Paragraph 2
Refinancing of Medium-Term Loans — Article L744-7

Article L744-7

(Order No. 2005-171 of 24 February 2005 Art. 6 II 2 Official Journal of 25 February 2005)

Articles L. 431-7 to L. 431-7-5 are applicable in New Caledonia. In 1 of Article L. 431-7, the words "with the exception of the persons referred to in a) of 2" are added after "benefiting from the provisions of Article L. 531-2".

Subsection 2
Specific Methods of Assigning Financial Instruments — Articles L744-8 to L744-10

Paragraph 1
Auctions — Articles L744-8 to L744-8-1

Article L744-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 432-5 is applicable in New Caledonia.

Article L744-8-1

(inserted by Order No. 2006-60 of 19 January 2006 Art. 2 II 2 Official Journal of 20 January 2006)

I. - Articles L. 432-6, L. 432-7, L. 432-9, L. 432-10, L. 432-12 to L. 432-15 and Articles L. 432-17 to L. 432-19 are applicable in New Caledonia. The fiscal provisions of Articles L. 432-6, L. 432-7 and L. 432-13 are replaced by provisions of the Tax Code applicable locally having the same object.

II. - The provisions of Articles L. 432-6, L. 432-7, L. 432-9 and L. 432-10 are likewise applicable to assignments with full title, by way of guarantee, of securities, certificates or bills referred to in I of Article L. 431-7-3 made in connection with financial futures transactions carried out on an over-the-counter market, the assignments of securities referred to in 3 of Article L. 432-6 and the assignments referred to in Article L. 330-2.

Paragraph 2
Temporary Assignments — Article L744-9

Article L744-9

(Order No. 2005-429 of 6 May 2005 Art. 103 II Official Journal of 7 May 2005)

Article L. 432-20 is applicable in New Caledonia.

Paragraph 3
Forward Transactions — Article L744-10

Article L744-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part III of Book IV is applicable in New Caledonia.

Article L744-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter III of Part III of Book IV is applicable in New Caledonia.

Article L744-11
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 III, Official Journal of 12 December 2001)
Part IV of Book IV is applicable in New Caledonia.
Articles L. 464-1 and L. 464-2 also apply there.

Article L744-12
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter I of Part V of Book IV is applicable in New Caledonia. Articles L. 465-1 to L. 465-3 also apply there.

Article L744-13
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 465-4 and L. 466-1 are applicable in New Caledonia.

Article L745-1
(Order No. 2005-429 of 6 May 2005 Art. 104 I Official Journal of 7 May 2005)
(Order No. 2005-429 of 6 May 2005 Art. 104 II Official Journal of 7 May 2005)
Article L. 500-1, and likewise Articles L. 570-1 and L. 570-2, are applicable in New Caledonia.

Article L745-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter I of Part I of Book V is applicable in New Caledonia, with the exception of Articles L. 511-12, L. 511-21 to L. 511-28 and L. 511-34. Articles L. 571-1 to L. 571-9 also apply there.

Article L745-1-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 104 I Official Journal of 7 May 2005)
Chapter 1 of Part I of Book V is applicable in New Caledonia, with the exception of Articles L. 511-12, L. 511-21 to L. 511-28 and L. 511-34. Articles L. 571-1 to L. 571-9 also apply there.

Article L745-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Article L. 515-1 is applicable in New Caledonia.

Article L745-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 515-2 and L. 515-3 and Article L. 571-13 are applicable en New Caledonia.

Article L745-4
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 515-4 to L. 515-12 are applicable in New Caledonia.

Article L745-5
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 516-1 and L. 516-2 are applicable in New Caledonia.

Article L745-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 517-1 and L. 571-14 are applicable in New Caledonia.

Article L745-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 519-1 to L. 519-5 and Articles L. 571-15 and L. 571-16 are applicable in New Caledonia.

Article L745-7-1
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
The Postal and Telecommunications Office may offer, for its own account or on behalf of other service providers and pursuant to the competition rules and the specific rules applicable to each of its fields of activity, services relating to the provision means of payment and money transfer facilities, including, inter alia, giro cheques, payment cards, postal orders and cash-on-delivery facilities.

It may distribute the livret A and supplementary passbook savings accounts of the Caisse nationale d'épargne as provided for in an agreement entered into with the State and the Caisse des dépôts et consignations which determines, inter alia, the commission paid to the office by virtue of such distribution. Deposits made to such accounts are centralised by the Caisse des dépôts et consignations.

It may receive housing savings scheme deposits on behalf of credit institutions approved pursuant to Article L. 511-10 and distribute residential mortgages as provided for in Articles L. 315-1 to L. 315-3 of the Building and Housing Code. It may also distribute other savings products on behalf of credit institutions approved pursuant to Article L. 511-10 or investment firms approved pursuant to Article L. 532-1.

Article L745-7-2
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
Notwithstanding Articles L. 745-1-1 and L. 745-10, the provisions of chapters I to VII of Part I of Book V and those of Chapter II of Part III of that same Book are not applicable to the financial services of the Postal and Telecommunications Office.

The orders of the Minister for the Economy issued pursuant to Articles L. 611-1, L. 611-3 and L. 611-4 and the rules of the Banking the Finance Regulatory Committee and those of the Accounting Regulations Committee may, subject to amendment as necessary, be extended to the financial departments of the Postal and Telecommunications Office as determined in a Conseil d'Etat decree.

The financial services of the Postal and Telecommunications Office are subject to the scrutiny of the Finance Inspectorate.

Part VI of Book V relating to the Prevention of Money Laundering, with the exception of Article L. 563-2 and Articles L. 574-1 and L. 574-2, are applicable to the Postal and Telecommunications Office. In the event of the Office failing to meet its obligations hereunder, the Finance Inspectorate may refer the matter to the Banking Commission seeking imposition of a penalty laid down in Article L. 613-21.

Subsection 1
Giro Cheques and Payment Cards — Articles L745-7-3 to L745-7-8

Article L745-7-3
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
The giro cheque service is administered by the Postal and Telecommunications Office.
Subject to approval from the Postal and Telecommunications Office, any person may open a post-office current account.

Article L745-7-4
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
Articles L. 131-1 to L. 131-15, L. 131-31 to L. 131-38, first paragraph, L. 131-44 and L. 131-45, L. 131-59 and L. 131-60, L. 131-71 to L. 131-87, L. 163-1 to L. 163-10-1 and L. 712-5 apply to giro cheques drawn on the Postal and Telecommunications Office.
Giro cheques are not endorsable.
In the event of payment of a giro cheque being refused, a certificate of non-payment is issued instead of a protest.

Article L745-7-5
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
The holder of a post-office current account is responsible for any consequences resulting from the improper use, loss or disappearance of the cheque forms issued to him by the Postal and Telecommunications Office. Liability for any erroneous payment or transfer resulting from inaccurate or incomplete indications rests with the drawer of the cheque or the person requesting the transfer.

Article L745-7-6
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
The balance on any post-office current account on which there have been no movements or claims from the rightful owners for thirty years is acquired by New Caledonia.

Article L745-7-7
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
The Postal and Telecommunications Office is responsible for the sums it receives as credits to post-office current accounts.
When in-payment postal orders are used, the provisions of Article L. 745-7-10 are applicable.

Article L745-7-8
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
The Postal and Telecommunications Office grants its guarantee to the beneficiaries of payments made via the payment cards it issues.

Subsection 2
Postal Orders — Articles L745-7-9 to L745-7-11

Article L745-7-9
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
Funds may be transmitted by means of postal orders issued by the Postal and Telecommunications Office.

Article L745-7-10
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
The Postal and Telecommunications Office is liable for the sums converted into postal orders until such time as they are paid.

Article L745-7-11
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
Funds received by the Postal and Telecommunications Office for transmission via an order of any kind are definitively acquired by New Caledonia if payment or reimbursement thereof is not requested within two years of their payment date.

Subsection 3
Cash on Delivery — Articles L745-7-12 to L745-7-15

Article L745-7-12
(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)
Items of mail may be sent on a cash-on-delivery basis under terms and conditions laid down by the Postal and Telecommunications Office.

Article L745-7-13

(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)

The obligations imposed on the bearer of a cheque by the laws and regulations cannot be raised against the Postal and Telecommunications Office in connection with the payment of cheques received by it pursuant to the present subsection.

Article L745-7-14

(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)

The Postal and Telecommunications Office is responsible for the sums which have, or should have, been collected as soon as the items are delivered to the debtor or addressee. When such sums have been converted into postal orders or credited to a post-office current account, the office's responsibility is the same as it is for postal orders or giro cheques.

Article L745-7-15

(inserted by Order No. 2004-729 of 22 July 2004 Art. 1 II Official Journal of 24 July 2004)

Claims relating to cash-on-delivery items are entertained for a period of two years with effect from posting.

SECTION II
Money-Changers — Article L745-8

Article L745-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 520-1 to L. 520-4 are applicable in New Caledonia.

Articles L. 572-1 to L. 572-4 also apply there.

SECTION III
Investment Service Providers — Articles L745-9 to L745-11

Subsection 1
Definitions — Article L745-9

Article L745-9

(Order No. 2004-823 of 19 August 2004 Art. 10 II Official Journal of 21 August 2004)

Chapter 1 of Part III of Book V is applicable in New Caledonia, with the exception of Article L. 531-3 and subject to the following amendments:

- in Article L. 531-2 the words "but without being entitled to claim the benefit of the provisions of Articles L. 422-1, L. 532-16 to L. 532-27 and the second and third paragraphs of Article L. 612-2" are deleted.

Subsection 2
Conditions of Admission to the Profession — Article L745-10

Article L745-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter II of Part III of Book V, with the exception of Articles L. 532-16 to, L. 532-27, is applicable in New Caledonia. In Article L. 532-5, the words: "and benefit from the provisions of Articles L. 422-1 and L. 532-23 to L. 532-26" are deleted.

Subsection 3
Obligations of Investment Service Providers — Article L745-11

Article L745-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part III of Book V is applicable in New Caledonia.

Articles L. 563-1 to L. 563-6 and L. 573-1 to L. 573-7 also apply there.

SECTION IV
Other Service Providers — Articles L745-11-1 to L745-11-3

Article L745-11-1

(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 2 Official Journal of 21 August 2004)

Articles L. 541-1 to L. 541-7, and likewise Articles L. 573-9 to L. 573-11, are applicable in New Caledonia.

Article L745-11-2

(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 2 Official Journal of 21 August 2004)

Article L. 542-1 is applicable in New Caledonia.

Article L745-11-2-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 105 II Official Journal of 7 May 2005)

Article L. 543-1 is applicable in New Caledonia, subject to deletion of the words "the management companies of the

forestry-linked savings associations".

Article L745-11-3
(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 2 Official Journal of 21 August 2004)
Articles L. 544-1 to L. 544-4 are applicable in New Caledonia.

Article L745-12
(Order No. 2004-823 of 19 August 2004 Art. 6 II 2 Official Journal of 21 August 2004)
Part V of Book V is applicable in New Caledonia.
Article L. 573-8 also applies there.

Article L745-13
(Order No. 2004-823 of 19 August 2004 Art. 6 II 2 Official Journal of 21 August 2004)
(Order No. 2006-60 of 19 January 2006 Art. 6 II, Art. 9 Official Journal of 20 January 2006)
Part VI of Book V, with the exception of the fiscal provisions of Article L. 563-2, and likewise Articles L. 574-1 and L. 574-2, are applicable in New Caledonia.
The references to Article 415 of the Customs Code are replaced by the reference to the provisions of the Customs Code applicable in New Caledonia having the same object.
For application of Article L. 562-1, references to the Insurance Code, the Social Security Code, the Rural Code and the Mutuality Code are replaced by references to the provisions applicable locally having the same object.
The implementing provisions of Part IV of Book V for the persons referred to in 3, 3 bis and 4 of Article L. 562-1 are governed by Articles 7 and 8 of Order No. 2006-60 of 19 January 2006 updating and amending the economic and financial law applicable in Mayotte, New Caledonia, French Polynesia and the Wallis and Futuna Islands.

Article L746-1
(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)
Chapter 1 of Part I of Book VI is applicable in New Caledonia.

Article L746-2
(Order No. 2004-823 of 19 August 2004 Art. 2 II, Art. 3 IV Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 106 Official Journal of 7 May 2005)
Articles L. 612-1, the first paragraph of Article L. 612-2, Articles L. 612-3 to L. 612-6, with the exception of the last sentence of the third paragraph of Article L. 612-6, and likewise Article L. 612-7 are applicable in New Caledonia.
Article L. 641-1 also applies there.

Article L746-3
(Order No. 2004-1127 of 21 October 2004 Art. 2 3 Official Journal of 22 October 2004)
Chapter III of Part I of Book VI is applicable in New Caledonia with the exception of Articles L. 613-12 to L. 613-14, L. 613-31-1 to L. 613-31-10 and L. 613-33.
Article L. 641-2 also applies there.

Article L746-4
(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 106 Official Journal of 7 May 2005)

Articles L. 614-1 to L. 614-3 are applicable in New Caledonia with the following amendments:

- in the first paragraph of Article L. 614-1, the words "and insurance companies" are deleted;
- in the first paragraph of Article L. 614-2, the words "and any proposed Community regulation or directive, before it is examined by the Council of the European Communities," and the words "in the insurance sector," are deleted.

Article L746-5

(Order No. 2004-823 of 19 August 2004 Art. 1 II 2 Official Journal of 21 August 2004)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

Part II of Book VI is applicable in New Caledonia subject to deletion, in the first paragraph of Article L. 621-15, of the words ", or by the chairman of the Insurance and Mutual Societies Supervisory Authority" and the second paragraph of Article L. 621-21. Articles L. 642-1 to L. 642-3 also apply there.

Article L746-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter II of Part II of Book VI, with the exception of Article L. 622-13, and Articles L. 642-4 and L. 642-5 are applicable in New Caledonia.

Article L746-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part II of Book VI and Articles L. 642-6 and L. 642-7 are applicable in New Caledonia.

Article L746-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 631-1, L. 631-2 and L. 632-1 are applicable in New Caledonia.

Article L751-1

(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Order No. 2000-916 of 19 September 2000 Article 1 I, Official Journal of 22 September 2000 effective 1 January 2002)

Article L. 112-6 is applicable in French Polynesia. In I of that article, the words: "the sum of five thousand francs" are replaced with the words: "the sum of 838 euros". In II, the words: the sum of three thousand francs" are replaced with the words: "the sum of 502,80 euros".

Article L751-2

(Act No. 2001-1062 of 15 November 2001 Art. 71 VI Official Journal of 16 November 2001)
(Order No. 2006-60 of 19 January 2006 Art. 10 II Official Journal of 20 January 2006)

Articles L. 131-1 to L. 131-87, with the exception of the second sentence of the third paragraph of Article L. 131-71, Articles L. 132-1 to L. 132-6, Article L. 133-1 and L. 163-1 to L. 163-12 are applicable in French Polynesia as provided for in a Conseil d'Etat decree.

For application of the provisions of Article L. 133-1, the words "within" are replaced by the words "to or from".

Article L751-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 151-1 to L. 151-4 and Article L. 165-1 are applicable in French Polynesia. Article L. 165-1 is amended as follows:

"Article L. 165-1. - Articles of the Customs Code in force in French Polynesia relating to Parts II and XII of the Customs Code are applicable to breaches of the obligations imposed by Article L. 151-2."

Decrees founded on a report from the Minister for the Overseas Departments and Territories and the Minister for the Economy determine the implementing legislation for Article L. 151-2.

Article L751-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

As determined in a Conseil d'Etat decree, natural persons in French Polynesia must declare any sums or securities which they send abroad, or receive from abroad, without going through an institution subject to the provisions of Part I of Book V or Article L. 518-1.

A declaration is made for each transfer, excluding transfers of an amount below nine hundred thousand CFP francs.

The implementing regulations for the present article are determined in a Conseil d'Etat decree.

Article L751-5

(Order No. 2006-60 of 19 January 2006 Art. 12 Official Journal of 20 January 2006)

I. - Failure to discharge the obligations imposed by Article L. 751-4 shall incur a fine equal to one quarter of the sum to which the offence or attempted offence relates.

II. - In the event of customs officers discovering an offence referred to in I, they shall confiscate the entire sum to which the offence or attempted offence relates for a period of three months, which period may be renewed with authorisation from the Public Prosecutor of the place where the customs authority handling the case is located but shall not exceed a total period of six months.

The sum confiscated is duly attached, and forfeiture thereof may be pronounced by the competent court if, during the period of confiscation, it is established that the perpetrator of the offence referred to in I is or was in possession of objects which give grounds for thinking that he is or was the perpetrator of one or more offences envisaged and rendered illegal by the Customs Code, or that he is participating or has participated in the commission of such offences, or if there are plausible reasons for thinking that the perpetrator of the offence referred to in I has committed one or more offences envisaged and rendered illegal by the Customs Code or that he has participated in the commission of such offences.

Dismissal of the charges or acquittal and discharge automatically entails the lifting of the confiscation and attachment measures imposed, with the Trésor public meeting the cost thereof. The same applies in the event of extinction of an action seeking application of tax penalties.

III. - Detection, recording and prosecution of the offences referred to in I take place as determined in the Customs Code applicable in French Polynesia.

Article L751-6

(Order No. 2005-429 of 6 May 2005 Art. 95 IV Official Journal of 7 May 2005)

The provisions of Articles L. 751-4 and L. 751-5 do not apply to financial dealings between French Polynesia on the one hand, and Metropolitan France, Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint Pierre and Miquelon, New Caledonia and the Wallis and Futuna Islands, on the other.

Article L752-1

(Order No. 2005-429 of 6 May 2005 Art. 97 Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 1 II Official Journal of 20 January 2006)

Articles L. 211-1 to L. 211-6 are applicable in French Polynesia.

Article L752-2

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 212-1 and L. 212-2 and Articles L. 212-4 and L. 212-12 are applicable in French Polynesia.

Article L752-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 213-1 to L. 213-4 are applicable in French Polynesia, with the exception of 5 of Article L. 213-3.

Article L752-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 213-5 and L. 213-6 and Article L. 231-1 are applicable in French Polynesia.

Article L752-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 213-7 is applicable in French Polynesia.

Article L752-6

(Order No. 2004-823 of 19 August 2004 Art. 4 II, Art. 11 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 98 III Official Journal of 7 May 2005)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Chapter IV of Part I of Book II is applicable in French Polynesia, with the exception of 4 of I of Article L. 214-1, of 4 of II of Article L. 214-34, des Articles L. 214-39 to L. 214-41-1, of Section 5, des Articles L. 214-85 to L. 214-88, and without prejudice to the following amendment:

In Article L. 214-18, the words "the provisions of Order No. 45-2710 of 2 November 1945 relating to investment companies, and" are deleted.

Articles L. 231-3 to L. 231-21 are also applicable in French Polynesia.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L752-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 223-1 to L. 223-4 and Articles L. 232-1 and L. 232-2 are applicable in French Polynesia.

Article L753-1

(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 99 Official Journal of 7 May 2005)

Articles L. 311-1 to L. 311-3 are applicable in French Polynesia.

Article L753-2

(Order No. 2004-729 of 22 July 2004 Art. 2 I Official Journal of 24 July 2004)
(Order No. 2006-60 of 19 January 2006 Art. 3 II Official Journal of 20 January 2006)

Chapter II of Part I of Book III is applicable in French Polynesia, with the exception of the second and fourth paragraphs of Article L. 312-3 and des Articles L. 312-17 and L. 312-18. Article L. 352-1 also applies there.

The first paragraph of II of Article L. 312-1-2 is replaced with the following provisions: "Agents of the Overseas Issuing Institution are authorised, in the performance of their duties, to seek to uncover violations of the provisions of I of Article L. 312-1-1 and I of Article L. 312-1-2 and record them in a statement of offence".

Article L. 312-1 is applicable in French Polynesia. In the first three paragraphs of the said article, the words "financial services of the Post Office" are replaced by the words "financial services of the Postal and Telecommunications Office".

In the pre-January 2006 version of Articles L. 312-1 and L. 312-1-1, which remains in force in New Caledonia and French Polynesia, the words "financial services of the Post Office" are replaced by the words "financial services departments of the Postal and Telecommunications Office".

Article L753-3

(Order No. 2006-60 of 19 January 2006 Art. 3 III Official Journal of 20 January 2006)

Articles L. 313-1 to L. 313-5-2 are applicable in French Polynesia. Article L. 351-1 also applies there.

Article L753-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-7 to L. 313-11 are applicable in French Polynesia.

Article L753-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-12, L. 313-21 and L. 313-22 are applicable in French Polynesia.

Article L753-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-23 to L. 313-41 are applicable in French Polynesia.

Article L753-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 313-50 and L. 313-51 are applicable in French Polynesia.

Article L753-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Part II of Book III is applicable in French Polynesia.

In Article L. 322-2, the reference to Articles L. 312-17 and L. 312-18 is deleted.

Article L753-9

(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)
(Order No. 2005-171 of 24 February 2005 Art. 6 II 3 Official Journal of 25 February 2005)

Articles L. 330-1 and L. 330-2 are applicable in French Polynesia subject to deletion, in the first paragraph of I of Article L. 330-1, of the words "or international" and "or a non-resident institution having comparable status", as well as the second sentence of the second paragraph and the entire third paragraph of that article. In Article L. 330-2, the reference to Book VI of the Commercial Code is replaced by the reference to the provisions applicable in French Polynesia having the same object.

Article L753-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter I of Part IV of Book III and Articles L. 353-1 and L. 353-2 are applicable in French Polynesia.

Article L753-11

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part IV of Book III and Article L. 353-6 are applicable in French Polynesia.

Article L754-1

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 411-1 and L. 411-2 are applicable in French Polynesia.

Article L754-2

(Act No. 2005-842 of 26 July 2005 Art. 26 V Official Journal of 27 July 2005)

Articles L. 412-1, and L. 412-2 are applicable in French Polynesia.

Article L754-3

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter I of Part II of Book IV is applicable in French Polynesia.
Articles L. 462-1 and L. 462-2 also apply there.

Article L754-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 423-1 is applicable in French Polynesia.

Paragraph 1
Transfer of title and Pledging — Articles L754-5 to L754-6

Article L754-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 431-1 to L. 431-3 are applicable in French Polynesia.

Article L754-6

(Order No. 2005-429 of 6 May 2005 Art. 101 Official Journal of 7 May 2005)

Articles L. 431-4 to L. 431-5 are applicable in French Polynesia.

Paragraph 2
Clearing and Assignment of Receivables — Article L754-7

Article L754-7

(Order No. 2005-171 of 24 February 2005 Art. 6 II 3 Official Journal of 25 February 2005)

Articles L. 431-7 to L. 431-7-5 are applicable in French Polynesia. In 1 of I of Article L. 431-7, the words "with the exception of the persons referred to in a) of 2" are added after "the beneficiaries of the provisions of Article L. 531-2". The reference to Book VI of the Commercial Code is replaced by the reference to the provisions applicable in French Polynesia having the same object.

Subsection 2
Specific Methods of Assigning Financial Instruments — Articles L754-8 to L754-9

Paragraph 1
Auctions — Article L754-8

Article L754-8

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Article L. 432-5 is applicable in French Polynesia.

Paragraph 2
Temporary Assignments — Article L754-8-1

Article L754-8-1

(inserted by Order No. 2006-60 of 19 January 2006 Art. 2 II 3 Official Journal of 20 January 2006)

I. - Articles L. 432-6, L. 432-7, L. 432-9 L. 432-10, L. 432-12 to L. 432-15, and likewise Articles L. 432-17 to L. 432-19, are applicable in French Polynesia, with the following amendments:

1 The fiscal provisions of Articles L. 432-6, L. 432-7 and L. 432-13 are replaced by provisions of the Tax Code applicable locally, having the same object;

2 In 3 of Article L. 432-6, the references to articles 1892 à 1904 of the Civil Code are replaced by references to the provisions applicable locally having the same object;

3 Article L. 432-10 is supplemented by a paragraph worded as follows:

The lender cannot demand return of the securities borrowed before the agreed expiry date of the loan.

II. - The provisions of Articles L. 432-6, L. 432-7, L. 432-9 and L. 432-10 apply likewise to the transfers with full title of securities, certificates or bills, by way of guarantee, provided for in I of Article L. 431-7-3 effected on an over-the-counter market in connection with financial futures transactions, the transfers of certificates referred to in 3 of Article L. 432-6 and the transfers referred to in Article L. 330-2.

Paragraph 2
Forward Transactions — Article L754-9

Article L754-9

(Order No. 2005-429 of 6 May 2005 Art. 103 III Official Journal of 7 May 2005)

Article L. 432-20 is applicable in French Polynesia.

Subsection 3
Transactions Specific to Regulated Markets — Article L754-10

Article L754-10

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part III of Book IV is applicable in French Polynesia.

SECTION IV

Article L754-11
(Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
(Act No. 2001-1168 of 11 December 2001 Article 27 III, Official Journal of 12 December 2001)
Part IV of Book IV is applicable in French Polynesia.
Articles L. 464-1 and L. 464-2 also apply there.

Article L754-12
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 465-1 to L. 465-3 are applicable in French Polynesia.

Article L754-13
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 465-4 and L. 466-1 are applicable in French Polynesia.

Article L755-1
(Order No. 2005-429 of 6 May 2005 Art. 104 I Official Journal of 7 May 2005)
(Order No. 2005-429 of 6 May 2005 Art. 104 II Official Journal of 7 May 2005)
Article L. 500-1, and likewise Articles L. 570-1 and L. 570-2, are applicable in French Polynesia.

Article L755-1
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter I of Part I of Book V is applicable in French Polynesia, with the exception of Articles L. 511-12, L. 511-21 to L. 511-28 and L. 511-34. Articles L. 571-1 to L. 571-9 are also applicable in French Polynesia.

Article L755-1-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 104 I Official Journal of 7 May 2005)
Chapter 1 of Part I of Book V is applicable in French Polynesia, with the exception of Articles L. 511-12, L. 511-21 to L. 511-28 and L. 511-34. Articles L. 571-1 to L. 571-9 are also applicable in French Polynesia.

Article L755-2
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Article L. 515-1 is applicable in French Polynesia.

Article L755-3
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 515-2 and L. 515-3 and Article L. 571-13 are applicable in French Polynesia.

Article L755-4

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 515-4 to L. 515-12 are applicable in French Polynesia.

Article L755-5

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 516-1 and L. 516-2 are applicable in French Polynesia.

Article L755-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 517-1 and L. 571-14 are applicable in French Polynesia.

Article L755-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Articles L. 519-1 to L. 519-5, and Articles L. 571-15 and L. 571-16, are applicable in French Polynesia.

Article L755-7-1

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The Postal and Telecommunications Office may offer, for its own account or on behalf of other service providers and pursuant to the competition rules and the specific rules applicable to each of its fields of activity, services relating to the provision means of payment and money transfer facilities, including, inter alia, giro cheques, payment cards, postal orders and cash-on-delivery facilities.

It may distribute the livret A and supplementary passbook savings accounts of the Caisse nationale d'épargne as provided for in an agreement entered into with the State and the Caisse des dépôts et consignations which determines, inter alia, the commission paid to the office by virtue of such distribution. Deposits made to such accounts are centralised by the Caisse des dépôts et consignations.

It may receive housing savings scheme deposits on behalf of credit institutions approved pursuant to Article L. 511-10 and distribute residential mortgages as provided for in Articles L. 315-1 to L. 315-3 of the Building and Housing Code. It may also distribute other savings products on behalf of credit institutions approved pursuant to Article L. 511-10 or investment firms approved pursuant to Article L. 532-1.

Article L755-7-2

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

Notwithstanding Articles L. 755-1-1 and L. 755-10, the provisions of chapters I to VII of Part I of Book V and those of Chapter II of Part III of that same Book are not applicable to the financial services of the Postal and Telecommunications Office.

The orders of the Minister for the Economy issued pursuant to Articles L. 611-1, L. 611-3 and L. 611-4 and the rules of the Banking the Finance Regulatory Committee and those of the Accounting Regulations Committee may, subject to amendment as necessary, be extended to the financial departments of the Postal and Telecommunications Office as determined in a Conseil d'Etat decree.

The financial services of the Postal and Telecommunications Office are subject to the scrutiny of the Finance Inspectorate.

Part VI of Book V relating to the Prevention of Money Laundering, with the exception of Article L. 563-2 and Articles L. 574-1 and L. 574-2, are applicable to the Postal and Telecommunications Office. In the event of the Office failing to meet its obligations hereunder, the Finance Inspectorate may refer the matter to the Banking Commission seeking imposition of a penalty laid down in Article L. 613-21.

Article L755-7-3

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The giro cheque service is administered by the Postal and Telecommunications Office.

Subject to approval from the Postal and Telecommunications Office, any person may open a post-office current account.

Article L755-7-4

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

Articles L. 131-1 to L. 131-15, L. 131-31 to L. 131-38, first paragraph, L. 131-44 and L. 131-45, L. 131-59 and L. 131-60, L. 131-71 to L. 131-87, L. 163-1 to L. 163-10-1 and L. 712-5 apply to giro cheques drawn on the Postal and Telecommunications Office.

Giro cheques are not endorsable.

In the event of payment of a giro cheque being refused, a certificate of non-payment is issued instead of a protest.

Article L755-7-5

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The holder of a post-office current account is responsible for any consequences resulting from the improper use, loss or disappearance of the cheque forms issued to him by the Postal and Telecommunications Office. Liability for any erroneous payment or transfer resulting from inaccurate or incomplete indications rests with the drawer of the cheque or the person requesting the transfer.

Article L755-7-6

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The balance on any post-office current account on which there have been no movements or claims from the rightful owners for thirty years is acquired by New Caledonia.

Article L755-7-7

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The Postal and Telecommunications Office is responsible for the sums it receives as credits to post-office current accounts.

When in-payment postal orders are used, the provisions of Article L. 755-7-10 are applicable.

Article L755-7-8

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The Postal and Telecommunications Office grants its guarantee to the beneficiaries of payments made via the payment cards it issues.

Subsection 2
Postal Orders — Articles L755-7-9 to L755-7-11

Article L755-7-9

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

Funds may be transmitted by means of postal orders issued by the Postal and Telecommunications Office.

Article L755-7-10

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The Postal and Telecommunications Office is liable for the sums converted into postal orders until such time as they are paid.

Article L755-7-11

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

Funds received by the Postal and Telecommunications Office for transmission via an order of any kind are definitively acquired by French Polynesia if payment or reimbursement thereof is not requested within two years of their payment date.

Subsection 3
Cash on Delivery — Articles L755-7-12 to L755-7-15

Article L755-7-12

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

Items of mail may be sent on a cash-on-delivery basis under terms and conditions laid down by the Postal and Telecommunications Office.

Article L755-7-13

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The obligations imposed on the bearer of a cheque by the laws and regulations cannot be raised against the Postal and Telecommunications Office in connection with the payment of cheques received by it pursuant to the present subsection.

Article L755-7-14

(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)

The Postal and Telecommunications Office is responsible for the sums which have, or should have, been collected as soon as the items are delivered to the debtor or addressee. When such sums have been converted into postal orders or credited to a post-office current account, the office's responsibility is the same as it is for postal orders or giro

cheques.

Article L755-7-15
(inserted by Order No. 2004-729 of 22 July 2004 Art. 2 II Official Journal of 24 July 2004)
Claims relating to cash-on-delivery items are entertained for a period of two years with effect from posting.

SECTION II
Money-Changers — Article L755-8

Article L755-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 520-1 to L. 520-4, and Articles L. 572-1 to L. 572-4, are applicable in French Polynesia.

SECTION III
Investment Service Providers — Articles L755-9 to L755-11

Subsection 1
Definitions — Article L755-9

Article L755-9
(Order No. 2004-823 of 19 August 2004 Art. 10 II Official Journal of 21 August 2004)
Chapter 1 of Part III of Book V is applicable in French Polynesia, with the exception of Article L. 531-3 and subject to the following amendments:
- in Article L. 531-2 the words "but without being entitled to claim the benefit of the provisions of Articles L. 422-1, L. 532-16 to L. 532-27 and the second and third paragraphs of Article L. 612-2" are deleted.

Subsection 2
Conditions of Admission to the Profession — Article L755-10

Article L755-10
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter II of Part III of Book V, with the exception of Articles L. 532-16 to, L. 532-27, is applicable in French Polynesia. In Article L. 532-5, the words: "and benefit from the provisions of Articles L. 422-1 and L. 532-23 to L. 532-26" are deleted.

Subsection 3
Obligations of Investment Service Providers — Article L755-11

Article L755-11
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter III of Part III of Book V is applicable in French Polynesia.
Articles L. 563-1 to L. 563-6 and L. 573-1 to L. 573-7 also apply there.

SECTION IV
Other Service Providers — Articles L755-11-1 to L755-11-3

Article L755-11-1
(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 3 Official Journal of 21 August 2004)
Articles L. 541-1 to L. 541-7, and likewise Articles L. 573-9 to L. 573-11, are applicable in French Polynesia.

Article L755-11-2
(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 3 Official Journal of 21 August 2004)
Article L. 542-1 is applicable in French Polynesia.

Article L755-11-2-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 105 III Official Journal of 7 May 2005)
Article L. 543-1 is applicable in French Polynesia, subject to deletion of the words "the management companies of the forestry-linked savings associations".

Article L755-11-3
(inserted by Order No. 2004-823 of 19 August 2004 Art. 6 II 3 Official Journal of 21 August 2004)
Articles L. 544-1 to L. 544-4 are applicable in French Polynesia.

SECTION VI
Obligations relating to the Prevention of Money Laundering — Article L755-13

Article L755-13
(Order No. 2004-823 of 19 August 2004 Art. 6 II 3 Official Journal of 21 August 2004)
(Order No. 2006-60 of 19 January 2006 Art. 6 II, Art. 9 Official Journal of 20 January 2006)

Part VI of Book V, with the exception of the fiscal provisions of Article L. 563-2, and likewise Articles L. 574-1 and L. 574-2, are applicable in French Polynesia.

The references to Article 415 of the Customs Code are replaced by the reference to the provisions of the Customs Code applicable in French Polynesia having the same object.

For application of Article L. 562-1, references to the Insurance Code, the Social Security Code, the Rural Code and the Mutuality Code are replaced by references to the provisions applicable locally having the same object.

The implementing provisions of Part IV of Book V for the persons referred to in 3, 3 bis and 4 of Article L. 562-1 are governed by Articles 7 and 8 of Order No. 2006-60 of 19 January 2006 updating and amending the economic and financial law applicable in Mayotte, New Caledonia, French Polynesia and the Wallis and Futuna Islands.

Article L756-1

(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)

Chapter 1 of Part I of Book VI is applicable in French Polynesia.

Article L756-2

(Order No. 2004-823 of 19 August 2004 Art. 2 II, Art. 3 IV Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 106 Official Journal of 7 May 2005)

Articles L. 612-1, the first paragraph of Article L. 612-2, Articles L. 612-3 to L. 612-6, with the exception of the last sentence of the third paragraph of Article L. 612-6, and likewise Article L. 612-7 are applicable in French Polynesia.

Article L. 641-1 also applies there.

Article L756-3

(Order No. 2004-1127 of 21 October 2004 Art. 2 4 Official Journal of 22 October 2004)

Chapter III of Part I of Book VI is applicable in French Polynesia with the exception of Articles L. 613-12 to L. 613-14, L. 613-31-1 to L. 613-31-10 and L. 613-33.

Article L. 641-2 also applies there.

Article L756-4

(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 106 Official Journal of 7 May 2005)

Articles L. 614-1 to L. 614-3 are applicable in French Polynesia with the following amendments:

- in the first paragraph of Article L. 614-1, the words "and insurance companies" are deleted;
- in the first paragraph of Article L. 614-2, the words "and any proposed Community regulation or directive, before it is examined by the Council of the European Communities," and the words "in the insurance sector," are deleted.

Article L756-5

(Order No. 2004-823 of 19 August 2004 Art. 1 II 3 Official Journal of 21 August 2004)
(Act No. 2005-1564 of 15 December 2005 Art. 14 Official Journal of 16 December 2005)

Part II of Book VI is applicable in French Polynesia subject to deletion, in the first paragraph of Article L. 621-15, of the words ", or by the chairman of the Insurance and Mutual Societies Supervisory Authority" and the second paragraph of Article L. 621-21. Articles L. 642-1 to L. 642-3 also apply there.

Article L756-6
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter II of Part II of Book VI, with the exception of Article L. 622-13 and Articles L. 642-4 and L. 642-5 are applicable in French Polynesia.

Article L756-7
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Chapter III of Part II of Book VI and Article L. 642-6 and L. 642-7 are applicable in French Polynesia.

Article L756-8
(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)
Articles L. 631-1, L. 631-2 and L. 632-1 are applicable in French Polynesia.

Article L761-1
(Act No. 2001-1062 of 15 November 2001 Art. 71 VI Official Journal of 16 November 2001)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 10 II Official Journal of 20 January 2006)
Articles L. 131-1 to L. 131-87, with the exception of the second sentence of the third paragraph of Article L. 131-71, L. 132-1 to L. 132-6, Article L. 133-1 and L. 163-1 to L. 163-12 are applicable in the Wallis and Futuna Islands as provided for in a Conseil d'Etat decree.
For application of the provisions of Article L. 133-1, the words "within" are replaced by the words "to or from".

Article L761-2
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
Articles L. 151-1 to L. 151-4, and likewise Article L. 165-1 are applicable in the Wallis and Futuna Islands.
Article L. 165-1 is amended as follows:
"Art. L. 165-1. - The articles of the Customs Code applicable in the Wallis and Futuna Islands which correspond to Parts II and XII of the Metropolitan Customs Code apply to breaches of the obligations laid down in Article L. 152-1."
Decrees issued on a report from the Minister for the Overseas Departments and Territories and the Minister for the Economy determine the implementing provisions of Article L. 151-2.

Article L761-3
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
In the Wallis and Futuna Islands, natural persons must declare, as determined in a Conseil d'Etat decree, the sums, certificates or securities that they transfer abroad or from abroad without going through an institution subject to the provisions of Part I of Book V or of Article L. 518-1.
A declaration is made for each transfer, with the exception of transfers of an amount below 7,542 euros.
The present article's implementing regulations are determined in a Conseil d'Etat decree.

Article L761-4

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 12 Official Journal of 20 January 2006)

I. - Failure to discharge the obligations imposed by Article L. 761-3 incurs a fine equal to one quarter of the sum to which the offence or attempted offence relates.

II. - In the event of customs officers discovering the offence referred to in I, they shall confiscate the entire sum to which the offence or attempted offence relates for a period of three months, which period may be renewed with authorisation from the Public Prosecutor having jurisdiction locally, subject to a maximum period of six months.

The sum confiscated is duly attached, and forfeiture thereof may be pronounced by the competent court if, during the period of confiscation, it is established that the perpetrator of the offence referred to in I is or was in possession of objects which give grounds for thinking that he is or was the perpetrator of one or more offences envisaged and rendered illegal by the Customs Code applicable in the Wallis and Futuna Islands, or that he is participating or has participated in the commission of such offences or, if there are plausible reasons for thinking that the perpetrator of the offence referred to in I has committed one or more offences envisaged and rendered illegal by the Customs Code applicable in the Wallis and Futuna Islands or that he has participated in the commission of such offences.

Dismissal of the charges or acquittal and discharge automatically entails the lifting of the confiscation and attachment measures imposed, with the Trésor public meeting the cost thereof. The same applies in the event of extinction of an action seeking application of tax penalties.

III. - Detection, recording and prosecution of the offences referred to in I take place as determined in the Customs Code applicable in the Wallis and Futuna Islands.

Article L761-5

(Order No. 2005-429 of 6 May 2005 Art. 90 I, Art. 95 V Official Journal of 7 May 2005)

Articles L. 761-3 and L. 761-4 do not apply to financial dealings between the Wallis and Futuna Islands, on the one hand, and Metropolitan France, Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint Pierre and Miquelon, New Caledonia and French Polynesia, on the other.

CHAPTER II
Products — Articles L762-1 to L762-7

SECTION I
Financial Instruments — Articles L762-1 to L762-6

Subsection 1
Definition and General Regulations — Article L762-1

Article L762-1

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 97 Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 1 II Official Journal of 20 January 2006)

Articles L. 211-1 to L. 211-6 are applicable in the Wallis and Futuna Islands.

Subsection 2
Shares and Securities Giving Access to Capital — Article L762-2

Article L762-2

(Order No. 2004-604 of 24 June 2004 Art. 62 III Official Journal of 26 June 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 212-1, L. 212-2, L. 212-4 to L. 212-7 are applicable in the Wallis and Futuna Islands.

Subsection 3
Debt Instruments — Articles L762-3 to L762-5

Paragraph 1
Negotiable Debt Instruments — Article L762-3

Article L762-3

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 213-1 to L. 213-4 are applicable in the Wallis and Futuna Islands, with the exception of 5 of Article L. 213-3.

Paragraph 2
Bonds — Articles L762-4 to L762-5

Article L762-4

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 213-5 and L. 213-6, and likewise Article L. 231-1 are applicable in the Wallis and Futuna Islands.

Article L762-5

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Article L. 213-7 is applicable in the Wallis and Futuna Islands.

Article L762-6

(Order No. 2004-823 of 19 August 2004 Art. 4 II, Art. 11 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 98 IV Official Journal of 7 May 2005)
(Order No. 2005-1278 of 13 October 2005 Art. 5 Official Journal of 14 October 2005)

Chapter IV of Part I of Book II is applicable in the Wallis and Futuna Islands, with the exception of 4 of I of Article L. 214-1, of 4 of II of Article L. 214-34, des Articles L. 214-39 to L. 214-41-1, of Section 5, des Articles L. 214-85 to L. 214-88, and without prejudice to the following amendment:

In Article L. 214-18, the words "the provisions of Order No. 45-2710 of 2 November 1945 relating to investment companies, and" are deleted.

Articles L. 231-3 to L. 231-21 are also applicable in the Wallis and Futuna Islands.

NB: Order 2005-1278 of 13 October 2005 Art. 7: This Order shall enter into force on the first day of the month following the month of publication in the Official Journal of the French Republic of the Order of the Minister for the Economy approving the provisions of the General Regulations of the Financial Markets Authority relating to real-property collective investment undertakings.

Article L762-7

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 223-1 to L. 223-4, and likewise Articles L. 232-1 and L. 232-2 are applicable in the Wallis and Futuna Islands.

Article L763-1

(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 99 Official Journal of 7 May 2005)

Articles L. 311-1 to L. 311-3 are applicable in the Wallis and Futuna Islands.

Article L763-2

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 108 Official Journal of 7 May 2005)

Chapter II of Part I of Book III is applicable in the Wallis and Futuna Islands, with the exception of the second and fourth paragraphs of Article L. 312-3 and Articles L. 312-17 and L. 312-18. Article L. 352-1 also applies there. The provisions of Article L. 312-1 which apply to credit institutions apply also to the Trésor public.

Article L763-3

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 3 III Official Journal of 20 January 2006)

Articles L. 313-1 to L. 313-5-2 are applicable in the Wallis and Futuna Islands. Article L. 351-1 also applies there.

Article L763-4
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
Articles L. 313-7 to L. 313-11 are applicable in the Wallis and Futuna Islands.

Article L763-5
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
Articles L. 313-12, L. 313-21 and L. 313-22 are applicable in the Wallis and Futuna Islands.

Article L763-6
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
Articles L. 313-23 to L. 313-41 are applicable in the Wallis and Futuna Islands.

Article L763-7
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
Articles L. 313-50 and L. 313-51 are applicable in the Wallis and Futuna Islands.

Article L763-8
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
Part II of Book III is applicable in the Wallis and Futuna Islands.
In Article L. 322-2, the reference to Articles L. 312-17 and L. 312-18 is deleted.

Article L763-9
(Order No. 2004-823 of 19 August 2004 Art. 9 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
Articles L. 330-1 and L. 330-2 are applicable in the Wallis and Futuna Islands subject to deletion, in the first paragraph of I of Article L. 330-1, of the words "or international" and "or a non-resident institution having comparable status", as well as the second sentence of the second paragraph and the entire third paragraph of that article.

Article L763-10
(Order No. 2004-823 of 19 August 2004 Art. 10 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
I. - Articles L. 341-1 to L. 341-17 are applicable in the Wallis and Futuna Islands with the following amendments:
a) In 2 of Article L. 341-2, the words "referred to in Section 3 of Chapter 1 of Part V of Book IV of the Planning Code" are deleted;
b) In 1 of Article L. 341-3, the words "the venture capital companies referred to in Article 1-1 of Act No. 85-695 of 11 July 1985 containing various provisions of an economic and financial nature, in relation to subscriptions to the securities they issue, as well as the equivalent institutions and companies approved in another European Community Member State and authorised to trade in France" are deleted; 2 of that article is deleted;
c) In 4 of Article L. 340-10, the words "proposed within the framework of a mechanism governed by Part IV of Book IV of the Labour Code" are deleted.
II. - Articles L. 353-1 to L. 353-4 are also applicable in the Wallis and Futuna Islands.

Article L763-11

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter III of Part IV of Book III is applicable in the Wallis and Futuna Islands.

Article L. 353-6 also applies there.

Article L764-1

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 411-1 and L. 411-2 are applicable in the Wallis and Futuna Islands.

Article L764-2

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 102 Official Journal of 7 May 2005)
(Act No. 2005-842 of 26 July 2005 Art. 26 V Official Journal of 27 July 2005)

Articles L. 412-1, and L. 412-2 are applicable in the Wallis and Futuna Islands.

Article L764-3

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter 1 of Part II of Book IV is applicable in the Wallis and Futuna Islands. Articles L. 462-1 and L. 462-2 also apply there.

Article L764-4

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Article L. 423-1 is applicable in the Wallis and Futuna Islands.

Article L764-5

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 431-1 to L. 431-3 are applicable in the Wallis and Futuna Islands.

Article L764-6

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 101 Official Journal of 7 May 2005)

Articles L. 431-4 to L. 431-5 are applicable in the Wallis and Futuna Islands.

Article L764-7

(Order No. 2005-171 of 24 February 2005 Art. 6 II 4 Official Journal of 25 February 2005)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 431-7 to L. 431-7-5 are applicable in the Wallis and Futuna Islands.

Article L764-8

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Article L. 432-5 is applicable in the Wallis and Futuna Islands.

Article L764-8-1

(inserted by Order No. 2006-60 of 19 January 2006 Art. 2 II 4 Official Journal of 20 January 2006)

I. - Articles L. 432-6, L. 432-7, L. 432-9, L. 432-10, L. 432-12 to L. 432-15, and likewise Articles L. 432-17 to L. 432-19 are applicable in the Wallis and Futuna Islands. The fiscal provisions of Articles L. 432-6, L. 432-7 and L. 432-13 are replaced by provisions of the Tax Code having the same object applicable locally.

II. - The provisions of Articles L. 432-6, L. 432-7, L. 432-9 and L. 432-10 apply likewise to the transfers with full title of securities, certificates or bills, by way of guarantee, provided for in I of Article L. 431-7-3 effected on an over-the-counter market in connection with financial futures transactions, the transfers of certificates referred to in 3 of Article L. 432-6 and the transfers referred to in Article L. 330-2.

Article L764-9

(Order No. 2005-429 of 6 May 2005 Art. 90 I, Art. 103 IV Official Journal of 7 May 2005)

Article L. 432-20 is applicable in the Wallis and Futuna Islands.

Article L764-10

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter III of Part III of Book IV is applicable in the Wallis and Futuna Islands.

Article L764-11

(Act No. 2001-1168 of 11 December 2001 Art. 27 III Official Journal of 12 December 2001)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Part IV of Book IV is applicable in the Wallis and Futuna Islands.
Articles L. 464-1 and L. 464-2 also apply there.

Article L764-12

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 465-1 to L. 465-3 are applicable in the Wallis and Futuna Islands.

Article L764-13

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter II of Part V of Book IV is applicable in the Wallis and Futuna Islands.
Articles L. 465-4 and L. 466-1 also apply there.

Article L765-1

(Order No. 2004-823 of 19 August 2004 Art. 3 III Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 104 I Official Journal of 7 May 2005)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, Art. 104 II Official Journal of 7 May 2005)

Article L. 500-1, and likewise Articles L. 570-1 and L. 570-2, are applicable in the Wallis and Futuna Islands.

SECTION I
Banking Sector Institutions — Articles L765-2 to L765-1-1

Article L765-1-1
(inserted by Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 104 I Official Journal of 7 May 2005)

Chapter 1 of Part I of Book V is applicable in the Wallis and Futuna Islands, with the exception of Articles L. 511-12, L. 511-21 to L. 511-28 and L. 511-34.

Articles L. 571-1 to L. 571-9 also apply there. In the last paragraph of Article L. 511-12-1, the words "or that rendered by the European Commission pursuant to Regulation (EEC) No. 4064/89 of the Council, of 21 December 1989, relating to the control of company merger operations" are deleted.

Subsection 1
Finance Companies — Articles L765-2 to L765-4

Paragraph 1
Common Provisions — Article L765-2

Article L765-2
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Article L. 515-1 is applicable in the Wallis and Futuna Islands.

Paragraph 2
Plant and Real-Property Leasing Companies — Article L765-3

Article L765-3
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 515-2 and L. 515-3, and likewise Article L. 571-13 are applicable in the Wallis and Futuna Islands.

Paragraph 3
Mutual Guarantee Societies — Article L765-4

Article L765-4
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 515-4 to L. 515-12 are applicable in the Wallis and Futuna Islands.

Subsection 2
Specialised Financial Institutions — Article L765-5

Article L765-5
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 516-1 and L. 516-2 are applicable in the Wallis and Futuna Islands.

Subsection 3
Financial Holding Companies — Article L765-6

Article L765-6
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 517-1 and L. 571-14 are applicable in the Wallis and Futuna Islands.

Subsection 4
Banking Transaction Intermediaries — Article L765-7

Article L765-7
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 519-1 to L. 519-5, and likewise Articles L. 571-15 and L. 571-16 are applicable in the Wallis and Futuna Islands.

SECTION II
Money-Changers — Article L765-8

Article L765-8
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 520-1 to L. 520-4 are applicable in the Wallis and Futuna Islands.
Articles L. 572-1 to L. 572-4 also apply there.

Article L765-9

(Order No. 2004-823 of 19 August 2004 Art. 10 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter 1 of Part 3 of Book V is applicable in the Wallis and Futuna Islands, with the exception of Article L. 531-3.

In Article L. 531-2, the words "but without being entitled to claim the benefit of the provisions of Articles L. 422-2, L. 532-16 to L. 532-27 and the second and third paragraphs of Article L. 612-2", are deleted.

Article L765-10

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter II of Part III of Book V, with the exception of Articles L. 532-16 to L. 532-27, is applicable in the Wallis and Futuna Islands. In Article L. 532-5, the words "and benefit from the provisions of Articles L. 422-2 and L. 532-23 to L. 532-27" are deleted.

Article L765-11

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter III of Part III of Book V is applicable in the Wallis and Futuna Islands.

Articles L. 563-1 to L. 563-6 and L. 573-1 to L. 573-7 also apply there.

Article L765-11-1

(Order No. 2004-823 of 19 August 2004 Art. 6 II 4 Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 541-1 to L. 541-7, and likewise Articles L. 573-9 to L. 573-11, are applicable in the Wallis and Futuna Islands.

Article L765-11-2

(Order No. 2004-823 of 19 August 2004 Art. 6 II 4 Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Article L. 542-1 is applicable in the Wallis and Futuna Islands.

Article L765-11-2-1

(inserted by Order No. 2005-429 of 6 May 2005 Art. 90 I, II Art. 105 IV Official Journal of 7 May 2005)

Article L. 543-1 is applicable in the Wallis and Futuna Islands, subject to deletion of the words "the management companies of the forestry-linked savings associations".

Article L765-11-3

(Order No. 2004-823 of 19 August 2004 Art. 6 II 4 Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 544-1 to L. 544-4 are applicable in the Wallis and Futuna Islands.

Article L765-12

(Order No. 2004-823 of 19 August 2004 Art. 6 II 4 Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, Art. 107 Official Journal of 7 May 2005)

Part V of Book V is applicable in the Wallis and Futuna Islands.

Article L. 573-8 also applies there.

Article L765-13

(Order No. 2004-823 of 19 August 2004 Art. 6 II 4 Official Journal of 21 August 2004)

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)
(Order No. 2006-60 of 19 January 2006 Art. 6, Art. 9 Official Journal of 20 January 2006)

Part VI of Book V, with the exception of the fiscal provisions of Article L. 563-2, and likewise Articles L. 574-1 and L. 574-2, are applicable in the Wallis and Futuna Islands.

The references to Article 415 of the Customs Code are replaced by the reference to the provisions of the Customs Code applicable in the Wallis and Futuna Islands having the same object.

For application of Article L. 562-1, references to the Insurance Code, the Social Security Code, the Rural Code and the Mutuality Code are replaced by references to the provisions applicable locally having the same object.

When, pursuant to Article 16 of Act No. 71-1130 of 31 December 1971, the number of advocates registered at the bar does not permit election of a council of the association, the advocate makes the declaration referred to in Article L. 562-2 directly to the department created by Article L. 562-43.

The implementing provisions of Part IV of Book V for the persons referred to in 3, 3 bis and 4 of Article L. 562-1 are governed by Articles 7 and 8 of Order No. 2006-60 of 19 January 2006 updating and amending the economic and financial law applicable in Mayotte, New Caledonia, French Polynesia and the Wallis and Futuna Islands.

Article L766-1

(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter 1 of Part I of Book VI is applicable in the Wallis and Futuna Islands.

Article L766-2

(Order No. 2004-823 of 19 August 2004 Art. 2 II, Art. 3 IV Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 106 Official Journal of 7 May 2005)

Articles L. 612-1, the first paragraph of Article L. 612-2, Articles L. 612-3 to L. 612-6, with the exception of the last sentence of the third paragraph of Article L. 612-6, and likewise Article L. 612-7, are applicable in the Wallis and Futuna Islands.

Article L. 641-1 also applies there.

Article L766-3

(Order No. 2004-1127 of 21 October 2004 Art. 2 5 Official Journal of 22 October 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Chapter III of Part I of Book VI is applicable in the Wallis and Futuna Islands with the exception of Articles L. 613-12 to L. 613-14, L. 613-31-1 to L613-31-10 and L. 613-33.

Article L. 641-2 also applies there.

Article L766-4

(Order No. 2004-823 of 19 August 2004 Art. 2 II Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II, Art. 106 Official Journal of 7 May 2005)

Articles L. 614-1 to L. 614-3 are applicable in the Wallis and Futuna Islands subject to deletion, in Article L. 614-2, the words "and any proposed Community regulation or directive, before it is examined by the Council of the European Communities,".

Article L766-5

(Order No. 2004-823 of 19 August 2004 Art. 1 II 4 Official Journal of 21 August 2004)
(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Part II of Book VI is applicable in the Wallis and Futuna Islands, with the exception of the second paragraph of Article L. 621-21. Articles L. 642-1 to L. 642-3 also apply there.

Article L766-6

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter II of Part II of Book VI, with the exception of Article L. 622-13 and Articles L. 642-4 and L. 642-5, are applicable in the Wallis and Futuna Islands.

Article L766-7

(inserted by Order No. 2000-1223 of 14 December 2000, Official Journal of 16 December 2000)

Chapter III of Part II of Book VI, and Articles L. 642-6 and L. 642-7, are applicable in the Wallis and Futuna Islands.

Article L766-8

(Order No. 2005-429 of 6 May 2005 Art. 90 I, II Official Journal of 7 May 2005)

Articles L. 631-1, L. 631-2 and L. 632-1 are applicable in the Wallis and Futuna Islands.