

**FOR
AGENDA**

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October 17, 2000

To: Members of the Executive Board

From: The Secretary

Subject: **France—Report on Observance of Standards and Codes—Transparency
in Monetary and Financial Policies**

The attached report on the observance of standards and codes on transparency in monetary and financial policies by France has been prepared in the context of the 2000 Article IV consultation with France (SM/00/217, 9/22/00), which is tentatively scheduled for discussion on Friday, October 27, 2000.

It is expected that following the Board discussion, this report will be published on the Fund's external website.

Ms. Dziobek (ext. 34874) is available to answer technical or factual questions relating to this paper prior to the Board discussion.

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INTERNATIONAL MONETARY FUND

FRANCE

**Report on the Observance of Standards and Codes:
Transparency in Monetary and Financial Policies**

Prepared by the Monetary and Exchange Affairs and European I Departments

Approved by Michael Deppler and Stefan Ingves

October 17, 2000

EXECUTIVE SUMMARY

This report was prepared by an MAE team in the context of the 2000 Article IV consultation mission during the period of June 26–30, 2000, on the basis of information provided by the French authorities and research done by the mission. The transparency of monetary policy was not assessed by the team as the Banque de France is a member of the European System of Central Banks and no longer conducts independent monetary policy.

The MAE team was led by Claudia Dziobek (MAE) and included Keith Bell (formerly of the Office of the Superintendent of Financial Institutions, Canada).

In France, transparency of financial policies is accorded a high priority by all financial agencies assessed and they are in observance of the good practices of the *Code of Good Practices on Transparency in Monetary and Financial Policies*. The major agencies disclose their objectives, their legal and institutional frameworks, and have open processes of policymaking and regulation. The principles of transparency are observed by dissemination of relevant information to the public, and in the agencies' arrangements for internal conduct, integrity, and accountability. However, the staff noted that the framework for supervision and regulation applicable to mutual insurance firms is not as well defined and suggested to improve its transparency.

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Glossary

BdeF	Banque de France
CB	Commission Bancaire
CCA	Commission de Contrôle des Assurances
CCMIP	Commission de Contrôle des Mutuelles et des Institutions de Prévoyance
CDGF	Conseil de Discipline de la Gestion Financière
CECEI	Comité des Etablissements de Crédit et des Entreprises d'Investissement
CMF	Conseil des Marchés Financiers
CNA	Conseil National des Assurances
COB	Commission des Opérations de Bourse
CRBF	Comité de la Réglementation Bancaire et Financière
CRI	Centrale des Règlements Interbancaires
ECB	European Central Bank
EMU	European Monetary Union
ESCB	European System of Central Banks
FGAP	Fonds de Garantie des Assurances de Personnes
FGD	Fonds de Garantie des Dépôts
JORF	Journal Officiel de la République Française
MoF	Ministère de l'Economie, des Finances et de l'Industrie
PNS	Paris Net Settlement
RGV	Relit grande vitesse
SICOVAM SA	Société Interprofessionnelle de Compensation des Valeurs Mobilières
SNP	Système net protégé
TARGET	Trans-European Automated Real-Time-Gross Settlement
TBF	Transferts Banque de France

I. BACKGROUND¹

1. In the context of the Article IV consultation mission, the French authorities requested an assessment by the International Monetary Fund (IMF) of observance of the *Code of Good Practices on Transparency in Monetary and Financial Policies* (MFP Transparency Code). The transparency of monetary policy was not assessed by the team as the Banque de France (BdF) is a member of the European System of Central Banks and no longer conducts independent monetary policy. The MFP Transparency Code assessment was conducted for financial policies concerning (1) banking regulation and supervision, (2) insurance regulation and supervision, (3) securities regulation and supervision, (4) client asset protection (deposit insurance), and (5) payment and settlement systems. Following is some background on the French financial sector and a more detailed assessment.

A. Structure of the Financial Sector

2. France's financial sector has undergone a sweeping transformation over the last decade and a half, spurred by European integration and the advent of European Monetary Union. Bank profitability has been restored; state divestment has been practically completed; a pre-funded deposit insurance scheme has been established, and a risk-based regulatory system has been put in place. Banking remains dominant in the financial sector and concentration is high. In 1999, the largest five banks held about 70 percent of deposits and accounted for about 46 percent of credit. Insurance firms collect a significant portion of household savings; the share of insurance in household financial assets is about 22 percent. In the distribution of life insurance, banks hold a market share of about 40 percent. In securities markets, stock market capitalization is about 67 percent of GDP, high by EU standards. Recent privatizations contributed to this result. The corporate bond market is less developed with the value of outstanding bonds at about 30 percent of GDP. France has two large value payment systems and one main securities settlement system (see also paragraphs 23–25).

B. Regulation and Supervision of the Financial Sector and Deposit Insurance

3. Financial sector oversight is shared among several specialized agencies. For banks and investment firms, prudential supervision is performed by the Commission Bancaire (CB), licensing by the Comité des Etablissements de Crédit et des Entreprises d'Investissement (CECEI), and regulation by the Comité de la Réglementation Bancaire et Financière (CRBF). For insurance firms, the main oversight agency is the Commission de Contrôle des Assurances (CCA). Licensing and regulations are done in the Ministry of

¹ The team was led by Claudia Dziobek (Mission Chief, MAE), and included Keith Bell (formerly of the Office of the Superintendent of Financial Institutions, Canada). Inputs were made by the staff of EU1 Department.

Finance (MoF). Mutual insurance firms are not subject to regulation by the CCA.² Securities market oversight is shared by the Commission des Opérations de Bourse (COB) responsible for disclosure and the Conseil des Marchés Financiers (CMF) for good conduct of market professionals (brokers and dealers). The COB also oversees asset management companies, supported by the Conseil de Discipline de la Gestion Financière (CDGF) for any disciplinary issues. Client asset protection is provided by the Fonds de Garantie des Dépôts (FGD) for bank deposits and the Fonds de Garantie des Assurances de Personnes (FGAP) for insurance contracts held by households, both of which were recently created. Smooth operation and security of payment and settlement systems is the responsibility of the BdeF. Active collaboration among all of the above-mentioned agencies to ensure systemic soundness is a central part of financial policy in France. This practice is referred to as *spécialisation et coopération*.

II. SECTORAL ASSESSMENTS

A. Banking Regulation and Supervision

Clarity of roles, responsibilities, and objectives

4. The broad objectives and institutional framework for the regulation and supervision of credit institutions and investment firms are derived from the 1984 Banking Act (as amended) and the 1993 Statute of the BdeF. Roles, responsibilities, and objectives of the three administrative authorities involved, the CB, the CECEI, and the CRBF, are clear and publicly disclosed, as are their relationships with other agencies (primarily the BdeF, the COB, and the CMF) and the MoF. Taken together, the objectives of the three administrative authorities comprise (a) the preservation of systemic stability, (b) maintenance of fair and competitive markets, and (c) client asset protection. Disclosure is through official publications (e.g., the *Journal Officiel de la République Française* (JORF); *Bulletin de la Commission Bancaire*; *Bulletin de la BdeF*; annual reports of the CECEI, the CRBF, the CB, and the BdeF; and the BdeF website).

5. The CB supervises banks' and investment firms' compliance with applicable laws and regulations. The CB has administrative and legal powers to issue reprimands and impose sanctions for non-compliance. The CECEI grants authorizations to banks and investment firms (except asset management companies). Investment services providers must also obtain approval of their business plans from the CMF. The CRBF establishes the general regulations applicable to banks and investment firms. For investment firms, the CRBF issues regulations after consulting the CMF.

² Mutual insurance firms are not-for-profit organizations established without share capital and owned by individual contributing members of a group where protection is provided against certain health, social, and economic risks. Any surplus from operations is reinvested in the organization for the benefit of all members.

6. The BdeF Credit Institutions and Investment Firms Division does the preparatory work for the decisions of the CRBF (in conjunction with the appropriate departments of the MoF and, where applicable, in cooperation with the CMF). Similarly, by formal agreement, the BdeF provides the CB with all staff and material resources for the performance of its functions.

7. The MoF appoints the members of the CB, the CECEI, and the CRBF, chairs the latter and approves its regulations. The MoF is also represented at the CECEI and the CB. The governor of the BdeF is a member of the CRBF and chairs both the CECEI and the CB. The “interlocking” character of the framework of supervision and regulation was extended beyond banking and investment firms in 1999 by the formal establishment of the Board of Financial Sector Authorities, comprising the chairpersons of the CB, the COB, the CMF, and the CCA to facilitate exchange of information among those responsible for supervision of corporate groups active in lending, investment, and insurance.

Open process for formulating and reporting policy decisions

8. The process for proposed substantive technical changes to the regulatory framework is consultative. Draft regulations are circulated among other supervisory authorities and the industry for consultation. Consultations with industry proceed by way of study groups with selected market experts and through dissemination of draft regulations to industry associations. However, industry associations also work through study groups composed of expert members; they do not routinely disseminate drafts to all members, which reduces transparency of the process for market participants and limits the contributions from them. A similar approach is taken in other areas of financial policy covered in this report. Decisions to change policy or implement new policy are made public immediately.

Public availability of information

9. The BdeF publishes an annual report supplemented by the BdeF Bulletin. The CB publishes its annual report describing and analyzing developments in the financial sector. The CECEI publishes an annual report and maintains the current list of credit and investment institutions published in the JORF. Texts of applicable legislation, regulations, and guidance notes are available to the public through various media. Senior officials explain their work in a variety of fora and the texts of their statements are released for publication.

Accountability and assurances of integrity

10. The Statute of the BdeF provides that the Governor of the BdeF may be heard by the National Assembly or the Senate or may request to be heard by them. Financial statements of the BdeF are audited by two accounting firms. As the BdeF provides all material and staff resources to the three administrative authorities engaged in regulation and supervision, they do not prepare financial statements. Detail on the costs incurred in the supervision and regulation of credit institutions and investment firms is not provided in the BdeF annual report. The BdeF uses its own internal audit staff to conduct audits of the operations of the

CB, the CRBF, and the CECEI. Standards for the conduct of the personal financial affairs of officials and staff of the CB, the CECEI, and the CRBF exist and are available to the public.

B. Insurance Regulation and Supervision

Clarity of roles, responsibilities, and objectives

11. Book III of the Insurance Code sets out the activities of the CCA. The CCA's mission and conduct of policies are described in its annual report. The CCA's broad objectives are (a) client asset protection and (b) protection of the rights of the insured. The CCA must also report to the MoF any anti-competitive activity or practice. The CCA does not have licensing or regulation-making powers. These are exercised by the MoF (Treasury) following consultation with the CCA.

12. Transparency of financial policy is lacking for mutual insurance firms that are not subject to the Insurance Code and not subject to CCA supervision.³ The framework of supervision and regulation applicable to these firms is much less well defined and transparent than is the case for the commercial insurance firms supervised by the CCA. The exclusion of these insurance firms from CCA oversight also reduces the effectiveness of cooperation agreements across financial sectors. While the CB and the COB have full oversight over all market participants, the CCA has less than full coverage. In this regard, the overall concept of cooperation and specialization is not fully transparent.

Open process for formulating and reporting policy decisions

13. The regulatory framework and operating procedures governing the conduct of financial policies are set out in the Insurance Code and its regulations and are further disclosed and explained through official publications. The CCA's role is complemented by the Conseil National des Assurances (CNA), a consultative body representing the State, the insurance business, its employees, as well as purchasers of insurance and the CCA. The CNA functions in plenary session, where proposed legislation and directives are studied, or via commissions on licensing, draft regulations, and business relations.

Public availability of information, accountability, and assurances of integrity

14. The CCA reports major developments in the insurance business in official publications and in its annual report. The CNA's 2000 annual report has extensive coverage

³ Mutual insurance firms are supervised by the *Commission de Contrôle des Mutuelles et des Institutions de Prévoyance* (CCMIP), an independent administrative body. The five members of the CCMIP board are jointly appointed by the Minister of Social Affairs and by the Minister of Agriculture. The staff are civil servants from the audit unit of the Ministry of Social Affairs (*Inspection Générale des Affaires Sociales*). The staff performs off- and on-site inspections of all mutual firms, including those in the insurance business. Mutual insurance firms are subject to the *Code de la Mutualité*, which is currently under review to ensure consistency with EU insurance directives.

of legislative and regulatory issues and on industry developments. The Insurance Code provides that any sanction imposed by the CCA may be appealed to the Conseil d'Etat, the highest administrative court. Senior officials of the CCA publicly explain the conduct of financial policies, policy objectives as well as performance in pursuing those objectives, and the state of the insurance sector. The MoF funds all material and staff of the CCA from its own budget and has a staff of internal auditors to assess the integrity of CCA's operations. Internal standards for conduct of CCA staff members' personal financial affairs are set out in the *Code de Déontologie*, which is publicly available.

C. Securities Regulation and Supervision

Clarity of roles, responsibilities, and objectives

15. The broad objectives and institutional framework of the COB and the CMF are defined in the legislation. Ordinance no. 67-833 of 1967 established the COB and the 1996 Financial Activity Modernization Act established the CMF. The COB's objectives are (a) proper functioning of financial markets, (b) investor protection, (c) high quality information, and (d) prevention of market abuse. The COB approves prospectuses for listed securities. In addition, the COB has sole responsibility to license and to supervise asset management companies (*société de gestion de portefeuille*). The CMF's broad objectives are similar but its responsibilities are focused on the conduct of brokers, dealers, and clearing houses as well as on market rules applicable to them. The CMF provides an opinion in licensing of investment service providers.

16. Concerning relationships with other agencies, cross-membership is the rule. For example, the chair of the CMF is also *de jure* a commissioner of the COB. The CMF and the COB chairpersons attend the meetings of the licensing and regulatory committees for banks and investment firms (the CRBF and the CECEI).

Open process for policy decisions and public availability of information

17. Regulatory and operating procedures are explained in the legislation and published in the JORF. Consultation with industry is practiced. The COB and the CMF have websites that contain policy announcements, descriptions of operating framework, targets, and instruments, data, and speeches, as well as relevant legislation in full text. Texts of regulations can also be ordered at a nominal charge.

18. Publication programs include annual reports, official bulletins, research publications, speeches of officials, nontechnical descriptions of role and functions of the COB, and newsletter and pamphlets for educational purposes. Periodic reports are required by law. Reports are issued annually and monthly on a timely basis by the COB and by the CMF. The public has access to these reports at cost.

Accountability and assurances of integrity

19. For the COB, internal by-laws (*règlement intérieur*) are published in the JORF as mandated by law (Art. 2 of the 1967 Ordinance) and are accessible on the website of the COB. Standards for the conduct of its staff's personal financial affairs are publicly available. Article 2 of the Ordinance requires the president and members of the COB to disclose any other economic or financial functions. The president, the members, and the staff of the COB and the CMF are subject to the rules of the Penal Code concerning professional secrecy (Art. 5 of the 1967 Ordinance for the COB, Art. 31 of the 1996 Financial Activity Modernization Act for the CMF). The COB does not have an internal audit division. Under the current COB's Conduct decision, this function is performed by external auditors, usually former magistrates from the National Court of Public Accounts (*Cour des Comptes*). The COB staff must report securities ownership and transactions. For the CMF, Article 30 of the 1996 Financial Activity Modernization Act contains details about financial disclosures required by members of the Council. Insider activities are not permitted.

D. Client Asset Protection

Clarity of roles, responsibilities, and objectives

20. The 1999 Savings and Financial Security Act separately created the FGD and the FGAP. Within prescribed limits, the FGD insures deposits, investments and *cautions* (performance bonds), and the FGAP insures contracts of insurance. The main objectives of the FGD and the FGAP are limited protection against loss and crisis prevention in the financial sector. All institutions licensed by the CECEI are required to be members of the FGD. Insurers subject to CCA supervision are required to be members of the FGAP. Relationships with other financial agencies are set out in the 1999 Act. The exclusion of mutual insurance firms from the FGAP detracts somewhat from the clarity of the FGAP's objective of crisis prevention. The authorities are studying this issue and considering a separate scheme for mutual insurance firms.

Open process for policy decisions, availability of information, and accountability

21. Given the recent creation of the two agencies, the basis to assess open processes is insufficient. Both the FGD and the FGAP have published their statutes and internal regulations, which, taken together with the 1999 Act, provide information on the nature and form of the client asset protection to be delivered, and the mode of financing. Information specifically directed to the general public in the form of an explanatory brochure has been published only by the FGD. Annual reports have not yet been issued.

22. The FGD and the FGAP are incorporated under private law and are required to publish audited financial statements. The agencies are accountable to their members through an oversight council made up of representatives of members. Practices in this respect have not been established.

E. Payment and Settlement Systems

23. France has two large value payment systems, the *Transferts Banque de France* (TBF) and the Paris Net Settlement (PNS). The TBF is a real-time-gross settlement system for intraday final settlement of transactions by banks in central bank money. Other settlement systems (retail, securities, and futures) are also settled through the TBF. The TBF is managed by the BdeF. The TBF is the French component of the Trans-European Automated Real-Time-Gross Settlement (TARGET) system of the European System of Central Banks (ESCB), which processes large value transactions in Euros.

24. The PNS is an interbank clearing system operating on a real-time-net-settlement basis. At the end of 1999, 25 credit institutions participated in the PNS. It is managed by the Center for Interbank Fund Transfers (*Centrale des Règlements Interbancaires*—CRI), jointly owned by the BdeF and ten credit institutions. A link between the TBF and PNS permits participants to manage their liquidity positions between the two systems.

25. The main securities settlement system is the *Relit grande vitesse* (RGV), a new (1998) delivery-against-payment system for large value OTC transactions in debt securities. The cash leg of such transactions is settled in central bank money, permitting intraday finality of settlement and is managed by *Société interprofessionnelle de compensation des valeurs mobilières* (SICOVAM SA). The RGV and the TBF are linked for intraday transfers of central bank money between those two systems.

Clarity of roles, responsibilities, and objectives

26. Roles and responsibilities are made clear in the legislative framework of the European Central Bank (ECB) and the ESCB, which states that the “ECB and the national central banks may provide clearing and settlement facilities, and the ECB may make regulations to ensure efficient and sound clearing and payment systems within the Community and with other countries.” The Statute of the BdeF states that the BdeF shall ensure the smooth operation and security of payment systems. For securities settlement, the *Règlement général* of the CMF sets out the operating rules of the settlement system, subject to the BdeF’s overall responsibility for payment systems. The objectives are clearly explained in publications and the BdeF website.

Open process for policy decisions, availability of information, and integrity

27. There is close cooperation with the industry in the formulation of policy. In 1995, an agreement signed between the BdeF and the *Association Française des Etablissements de Crédit* led to the inception in 1997 of both the TBF and *Système net protégé* (SNP, the predecessor of the PNS). The *Comité d’Orientation des Moyens de Paiement* comprises the BdeF and major banking groups, and serves as a forum for discussion of payment and settlement issues.

28. The BdeF promotes timely public disclosure of general policy principles through published reports in official publications, on its website, and through its active participation in financial sector working groups. Assurance of integrity of operations rests with BdeF's *Inspection Générale*.

III. IMF STAFF COMMENTARY

29. Overall, transparency of financial policies is accorded a high priority by all financial agencies assessed. The major agencies disclose their objectives, their legal and institutional frameworks, and have open processes of policymaking and regulation. The principle of transparency is observed by dissemination of relevant information to the public, and by the agencies' internal conduct, integrity, and accountability. These being the four main components of the MFP Transparency Code, the financial agencies responsible for financial policy are in observance of the practices of the MFP Transparency Code. The recently established client asset protection agencies were only assessed in areas where practices have been established.

30. Two areas for further improvements can nevertheless be noted. Transparency of financial policy is lacking for mutual insurance firms that are not subject to the Insurance Code and not subject to CCA supervision. The framework of supervision and regulation applicable to these firms is much less well defined and transparent than is the case for the commercial insurance firms supervised by the CCA. Second, some potential improvements might be realized concerning the open process of policymaking. While the involvement of professional associations appears to work well, drafts do not seem to be disseminated routinely to all members, which reduces the transparency of the process and limits the contributions from market participants.

31. The authorities were in broad agreement with this report. In late July 2000, the Minister of the Economy, Finance and Industry announced the formation of working groups on policy options to harmonize banking and insurance regulation and supervision as well as the means to enhance securities supervision. In insurance supervision, the authorities are considering a reform of the supervision of mutual insurance firms and the creation of a client asset protection scheme. The intended reform proposals remain broad but they appear to address some of the areas highlighted above.

