

The Paris office of Hogan Lovells is pleased to provide this English language edition of our monthly e-newsletter, which offers a legal and regulatory update covering France and Europe for December 2012.

Please note that French legal concepts are translated into English for information only and not as legal advice. The concepts expressed in English may not exactly reflect or correspond to similar concepts existing under the laws of the jurisdictions of the readers.

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Summary of miscellaneous French draft legislation

- **Draft law on the financing of works councils, n°4090**, filed on December 14, 2011 - Adopted on first reading by the National Assembly on January 26, 2012
- **Draft law on net neutrality, n°190**, filed on September 12, 2012, before the National Assembly
- **Draft law containing various provisions adapting the legislation to European Union law regarding economic and financial matters** - Presented to the Council of ministers on August 1, 2012 - Adopted on first reading by the Senate on September 26, 2012 - Amended on first reading by the National Assembly on 12 December 2012
- **Draft law on the establishment of the High Authority of scientific expertise and alert regarding health and environment** - Filed on August 28, 2012 - Adopted on first reading by the Senate on November 21, 2012
- **Draft law to make the transition to a basic energy system**, filed on September 6, 2012 - emergency procedure on September 10 - rejected on first reading by the Senate on October 30, 2012 - The joint committee was unable to prepare a common text on December 19, 2012
- **Draft law on the mobilization of public real estate for housing and reinforcement of production obligations of social housing** - Presented to the Council of Ministers on November 14, 2012. Adopted on first reading by the National Assembly on November 27, 2012. Adopted without amendment on first reading by the Senate on December 18, 2012
- **Draft law establishing the generation contract** - Presented to the Council of Ministers on December 12, 2012 - Review by MPs in public session from January 15, 2013

- **Draft law regarding the separation and regulation of banking activities** - Presented to the Council of Ministers on December 19, 2012 - Resend to the Finance Committee of the National Assembly

Enacted laws

- **Law n°2012-1559 of December 31, 2012 on the establishment of a Public Investment Bank** - OJ of January 1, 2013
- **Finance Act for 2013 n°2012-1509 of December 29, 2012** - OJ of December 30, 2012
- **Amended Finance Act for 2012 n°2012-1510 of December 29, 2012** - OJ of December 30, 2012
- **Law n°2012-1472 of December 28, 2012 authorizing the approval of the Cooperation Agreement between the Government of the French Republic and the Government of the Republic of Kazakhstan in the field of exploration and use of outer space for peaceful purposes** - OJ of December 29, 2012
- **Law n°2012-1473 of December 28, 2012 authorizing the approval of the amendment to the Convention on the Physical Protection of Nuclear Material** - OJ of December 29, 2012
- **Law n°2012-1460 of December 27, 2012 on the implementation of the principle of public participation set out in Article 7 of the Charter of the environment** - OJ of December 28, 2012
- **Law n°2012-1441 of December 24, 2012 on local/district courts** - OJ of December 26, 2012
- **Law n°2012-1442 of December 24, 2012 aiming at banning the manufacture, import, export and commercialisation of all forms of food packaging containing bisphenol A** - OJ of December 26, 2012
- **Law n°2012-1432 of December 21, 2012 on safety and fight against terrorism** - OJ of December 21, 2012
- **Order n°2012-1427 of December 19, 2012 reinforcing the security of the supply chain of drugs, supervision of drug sales on the Internet and fight against falsified medicines** - OJ of December 21, 2012
- **Social security financing law for 2013 n°2012-1404 of December 17, 2012** - OJ of December 18, 2012

1. Banking

France - Thresholds of usury

The notice (*avis*) dated 26 December 2012 on the implementation of Articles L.313-3 of the Consumer Code and L.313-5-1 of the Monetary and Financial Code concerning usury ([OJ n°0300 dated 26 December 2012](#)) fixed the usury thresholds corresponding to the different categories of loans.

These thresholds are applicable from 1st January 2013.

France - Contribution for supervision fees by the Prudential Control Authority (ACP)

Article 75 of the Rectifying Finance Law for 2012 n°2012-1510 dated 29 December 2012 ([OJ n°0304 dated 30 December 2012](#)) sets up that insurance brokers, insurance and reinsurance brokerage firms and intermediaries in banking transactions and payment services are subject to a contribution for supervision fees by the ACP in relation to their activity exerted by April 1st of each year.

This measure has come into force on 31 December 2012.

France - State guarantee in favour of the French Insurance Company for Foreign Trade (COFACE)

Article 84 of the Rectifying Finance Law for 2012 n°2012-1510 dated 29 December 2012 ([OJ n°0304 dated 30 December 2012](#)) broadens the scope of the State guarantee managed by the *COFACE* to cover the risk of non-payment concerning exports of civil aircraft, foreign exchange risk on the residual value of civil aircraft purchased on credit and risk of non-payment for contracts on the refinancing of French exports covered by a credit insurance.

This measure has come into force on 31 December 2012.

France - Creation of the Public Investment Bank (BPI)

The Law n°2012-1557 dated 31 December 2012 ([OJ n°0001 dated 1 January 2013](#)) creates the *BPI* a public group equally owned by the State and the Deposits and Consignments Fund (*Caisse des Dépôts et Consignations*). The *BPI* is dedicated to financing (loans and equity) and development, in particular in the industrial sector, very small enterprises, small and medium enterprises and mid-sized enterprises. The *BPI* is led by Jean-Pierre Jouyet.

This Law has come into force on 2 January 2013.

European Law - Supervisory mechanism led by the ECB

The Council of the European Union published on 14 December 2012 two proposals ([n°17812/12](#) and [n°17813/12](#)) concerning the supervision by the ECB of the credit institutions located in a Member State belonging to the euro area or in a Member State which has acceded to this supervisory mechanism. The supervision by the ECB will intervene in cases where the assets of the credit institutions exceed 30 billion euros or represent at least 20% of the GDP of the country of origin.

This mechanism should be operational in March 2014

2. Competition

European Law - EU Guidelines for the application of State aid rules in relation to broadband networks

[EU Guidelines](#) for the application of State aid rules in relation to the rapid deployment of broadband networks have been adopted by the European Commission on 19 December 2012. The Guidelines provide for a reinforcement of open-access obligations and improved transparency rules. They follow on from the principles of the Commission's State Aid Modernisation Initiative, which aims at facilitating well-designed State aids targeted at market failures. They will be published in the Official Journal of the European Union in January 2013 and will come into force on the day following their publication.

3. Consumer law

France - Class actions

On 18 December 2012, the *DGCCRF* has posted on its website a [Summary](#) of the public consultation launched on 23 October 2012 regarding the introduction of class actions into French law. The majority of respondents expressed willingness to participate in class actions and wish that only consumer associations represent the collective interests of consumers in a lawsuit.

On the same day, the Ministry of Economy and Finance has released the [Notice](#) of the National Consumer Council (NCC) of 4 December 2012 on class actions. The NCC notice focuses, in particular, on the scope of the class action, the group constitution, the role of consumer associations, the

conduct of the proceedings as well as the criteria and methods of compensation for damages.

The results of the public consultation and NCC Notice will be taken into account in the context of the draft bill amending Consumer law planned for spring 2013.

France - Prices of mass consumption goods in overseas departments

Decree n°2012-1459 of 26 December 2012 relating to annual agreements moderating prices of mass consumption goods was published in the Official Journal dated 27 December 2012. This Decree, aiming at the application of Article L.410-5 of the Commercial Code established by Article 15 of Law n°2012-1270 of 20 November 2012 on the economic regulation in overseas territories, regulates the method of preparation, negotiation and implementation of annual agreements moderating prices on a list of mass consumption goods in Guadeloupe, Guyane, Martinique, La Réunion, Mayotte, Saint-Pierre and Miquelon and Wallis and Futuna. Transitional provisions apply for the negotiations relating to the 2013 agreement.

4. Corporate

France - 2013 Social Security Budget Law: submission of dividends to social security contributions

Please refer to the Employment section.

European Law - Action Plan of the European Commission related to the modernization of European company law and corporate governance

The European Commission has adopted on December 12, 2012 an Action Plan outlining future initiatives in the areas of company law and corporate governance. The Commission identified several lines of action:

Increasing the level of transparency between companies and their shareholders in order to improve corporate governance;

Encouraging and facilitating long-term shareholder engagement; and

Improving the field of company law to support European businesses and encourage their growth and competitiveness.

In addition, the action plan foresees merging all major company law directives into a single instrument.

5. Employment

France - 2013 Social Security Budget Law: submission of conventional breach indemnities to special social tax

The 2013 Social Security Budget Law n°2012-1404 dated December 17th, 2012 submits the portion of conventional termination indemnities below twice the annual Social Security ceiling (i.e. 74,064 euros for 2013) to a special tax from the first euro (with a 20% rate).

Beyond this threshold, those specific indemnities will continue to be subject to social contributions.

France - Ministerial Decree: determination of the Social Security Ceiling

The Ministerial Decree dated December 12th, 2012 regarding the 2013 Social Security ceiling determination sets the annual Social Security ceiling at 37,032 euros (against 36,372 in 2012), i.e. 3,086 euros per month (against 3,031 euros in 2012) as from January 1st, 2013.

France - Decree: plan of action for equality between women and men

The Decree n°2012-1408 dated December 18th, 2012 regarding the implementation of companies' duties in terms of professional equality between women and men requires companies to register their plans of action, including those which are already implemented on December 19th, 2012, to the French labour administration ("DIRECCTE"), in duplicate, including a paper version and an electronic one.

Moreover, the Decree brings the number of action areas which have to be taken into consideration by collective agreements or plans of actions from two to three within companies with less than 300 employees and from three to four within companies with more than 300 employees.

Finally, the Decree provides that the indicators on the respective situation of women and men (remuneration, promotions, etc) should be defined by "professional category".

France - Decree: Minimum Wage raising

The Decree n°2012-1429 dated December 19th, 2012, regarding the minimum growth wage raising brings, as from January 1st, 2013, the amount of the gross hourly minimum wage to 9.43 euros, i.e. 1,430.22 euros monthly based on the legal working duration of 35 hours per week.

France - 2013 Social Security Budget Law: submission of dividends to social security contributions regarding independent workers within companies subject to corporate tax

The 2013 Social Security Budget Law n°2012-1404 dated December 17th, 2012, submits to social security contributions the portion of dividends received by independent workers working in a company subject to corporate tax, their spouse or civil partner or minor children which exceeds 10% of the capital stock, the share premiums and the amounts paid on current accounts held on complete property or usufruct by those persons.

6. Insolvency proceedings

European Law - Proposal for a regulation amending Council Regulation n°1346/2000 on insolvency proceedings

The proposal for a regulation of the European Parliament and of the Council (SWD(2012) 416 and SWD(2012) 417) amending Council Regulation (EC) n°1346/2000 on insolvency proceedings aims to extend its scope of application by revising the definition of insolvency proceedings to include the proceedings in which the debtor retains some control albeit subject to the control / supervision by a court / a judicial administrator, including pre-insolvency proceedings.

The proposal clarifies the notion of Centre Of Main Interests, improves the jurisdictional rules and requires the court to examine its jurisdiction *ex officio* prior to opening insolvency proceedings. The proposal also improves the cooperation between main and secondary proceedings, particularly by abolishing the requirement that secondary proceedings must be winding-up proceedings.

With respect to groups of companies, the proposal provides for an improvement of the coordination of the insolvency proceedings concerning different members of the same group of companies by obliging the liquidators and courts to cooperate and communicate with each other – to date, this is only an option.

With regard to the creditors, a publicly accessible electronic register will list the court decisions in cross-border insolvency cases. In this respect, national registers will communicate amongst themselves. The proposal also introduces standard forms for the lodging of claims.

7. Insurance

France - ORIAS – Homologation of the articles of association and implementation of the single register of intermediaries in insurance, banking and finance

The Order dated 20 December 2012 approving the articles of association of the *Organisme pour la tenue du registre des Intermédiaires en assurance, banque et finance* ("ORIAS") was published in the Official Journal on 26 December. The ORIAS is responsible for the establishment, maintenance and updating of the single register of insurance and reinsurance intermediaries, intermediaries in banking operations and payment services, financial investment advisors and tied agents of investment services providers in accordance with both the Insurance Code and the Monetary and Financial Code. This order shall become effective on 15 January 2013, date of implementation of the ORIAS register, this date having been determined by a second Order of the Minister of Economy dated 20 December 2012.

France - ORIAS – Amount of registration fees

The Order dated 20 December 2012 sets at 30 Euros the amount of the annual registration fees collected by the ORIAS. The fees are due for each registration and each renewal of registration in one of the categories referred to under 1° to 4° of I of Article R. 519-4 of the Monetary and Financial Code under which an intermediary carries on its activities. Fees are also due by the financial investment advisers and tied agents referred to respectively under Article L. 541-1 and Article L. 545-1 of the Monetary and Financial Code. This Order shall become effective on 15 January 2013.

France - Insurance rate – End of gender based discrimination

The Order dated 18 December 2012 on equality between men and women in insurance creates a new Article A. 111-6 in the Insurance Code. It provides that the provisions of the Insurance Code allowing discrimination based on gender are applicable only to contracts and adhesions to group insurance contracts entered into or made no later than 20 December 2012 and to these contracts and adhesions tacitly renewed after that date, unless such contracts are subject after 20 December 2012 to a substantial change requiring the agreement of the parties, other than an amendment the terms of which are explicitly provided for in the contracts. This article draws the conclusions from the judgment of the European Court of Justice in the case handed down on 1 March 2011, which ruled that gender based pricing in contracts of insurance is a contravention of EU law.

France - Tax regime applicable to IOBSP

A ruling of the tax administration published on 28 November 2012, clarifies the tax regime (industrial or commercial profit or non-commercial profit) applicable to the income of intermediaries in banking operations and payment services ("IOBSP") according to the functions they perform.

France - Amended financial law for 2012 – rate of contributions to supervision charges

Please refer to the Banking section.

European Law - Proposed directive on the freezing and confiscation of proceeds of crime in the EU

On 12 December 2012, the Council of the European Union published its general approach dated 11 December on the European Commission's proposed Directive on the freezing and confiscation of proceeds of crime in the European Union.

European Law - EIOPA – Procedures for warnings and temporary restrictions/prohibitions to enhance legal certainty

On 6 December 2012, the European Insurance and Occupational Pensions Authority ("EIOPA") published procedures for how it will issue warnings and temporary prohibitions and restrictions regarding financial activities. The procedures lay down the steps to be followed for identifying threats and initiating the further assessment process within EIOPA. The procedures also lay down the rights and obligations of the addressees of any warnings or temporary measures, how such warnings and measures will be communicated, their duration and review provisions. The procedures outline the steps to be taken both in the case of warnings and temporary prohibitions and restrictions.

European Law - EIOPA – Opinion on interim measures for Solvency II

On 20 December 2012, the European Insurance and Occupational Pensions Authority ("**EIOPA**") published an opinion on interim measures regarding Solvency II addressed to the national competent authorities. According to this opinion, EIOPA will issue guidelines on how to proceed in the interim phase leading up to Solvency II. These guidelines will cover the system of governance (including risk management system and a forward looking assessment of the undertaking's own risks), pre-application of internal models, and reporting to supervisors. The opinion also says that in preparation for Solvency II national competent authorities should put in place, starting on 1 January 2014, certain important aspects of the prospective and risk based supervisory approach, details of these are given in the opinion.

8. Intellectual Property

France - Varieties of plants: entry into force of the law of 13 December 2011 and a new Decree regarding the courts of first instance specialised in this field

Following the law n° 2011-1862 of 13 December 2011 regarding the repartition of litigations and the alleviation of some court proceedings, Article L. 623-31 of the French intellectual property code is amended from 1st January 2013 and does not include any longer any minimal number of courts of first instance specialised in the field of varieties of plants, whose number could not be less than ten before.

Decree n°2013-1 of 2 January 2013 regarding the courts of first instance specialised in actions regarding varieties of plants amends by coordination the code of judicial organisation.

9. New technologies

France - Private copy levy

The commission in charge of implementing the levy on blank media to compensate for private copying (as provided for in Article L.311-5 of the French intellectual property code) issued on 14 December 2012 a decision updating the applicable rates of the levy as of 1 January 2013. These new rates replace the rates overruled by Conseil d'Etat (the highest French administrative court) on 17 June 2011 (please refer to the Legal and regulatory update - June 2011).

France - National Council for digital technologies

A decree relating to the creation of the National Council for digital technologies ("Conseil du Numérique") was published in the *Journal Officiel* on 14 December 2012. The Council is now in charge of issuing in an independent manner its opinions and recommendations on all questions relating to the impact of digital technologies on society and on the economy and to make them public. The rules relating to the Council's make up are modified accordingly.

10. Procedures

European Law - Civil procedure

-Revision of Regulation (EU) n°1215/2012

On 10 December 2012, the Council of the European Union adopted a revision of Regulation (EU) n°1215/2012 (referred to as the "Brussels I" Regulation) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

The aim of this revision is to facilitate and accelerate the circulation of judgments in civil and commercial matters within the European Union. The

system established by the "Brussels I" Regulation is simplified, notably, with the abolition of the *exequatur*, i.e. the procedure consisting of the declaration of enforceability of a decision in another Member State.

Pursuant to the new provisions, national rules of jurisdiction will no longer be applicable by Member States to consumers and employees domiciled outside the European Union.

A rule on international *lis pendens* will also be introduced. It will allow the courts of a Member State to optionally stay proceedings and, later on, end the proceedings in cases where another State's court has already been seized, either of an action between the same parties or a related action.

The new provisions will start to apply two years after their entry into force.

European Law -Insolvency procedures

-Proposal for a revision of Council Regulation (EC) n°1346/2000 on insolvency proceedings

Following a broad consultation, the European Commission presented, on 13 December 2012, its proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) n°1346/2000 on insolvency proceedings. Ten years after the Regulation's entry into force, the Commission has deemed it necessary to amend it in order to solve difficulties related to its practical implementation. Hence, the proposal extends the scope of the Regulation by including, among the insolvency proceedings, hybrid and pre-insolvency proceedings as well as debt-discharge proceedings. The proposal also clarifies the rules on jurisdiction and improves the procedural framework for determining jurisdiction. As far as publicity is concerned, the proposal requires Member States to publish the relevant court decisions in cross-border insolvency cases in a publicly accessible electronic register and provides for the interconnection of national insolvency registers.

11. Public law

France - Taxation regime of public-private partnerships

Finance Law n°2012-1509 dated 29 December 2012, published in the OJ of 30 December 2012, excludes financial expenses (interests) incurred in relation to goods acquired or built in the context of public-private partnerships (concessions, partnership contracts, complex land arrangements) from the mechanism which limits the deduction allowed for financial expenses for income tax purposes. However, this exclusion benefits only to the contracts signed at the date of promulgation of the Law.

France - Support fund for local authorities which have taken "toxic" loans

Amending Finance Law n°2012-1510 dated 29 December 2012, published in the OJ of 30 December 2012, creates a support fund for local authorities which have subscribed risky financial structured products, with a budget of €50 million.

12. Real estate

France - Energy performance diagnosis and energy saving works

Decree n°2012-1342 dated 3 December 2012 published in the Official Journal of 5 December 2012 sets out in particular the voting and implementation procedures of energy performance diagnosis for buildings equipped with collective heating or cooling.

The Decree sets out the contents of the energy saving works plan, as well as the procedures for carrying out works of collective interest in the private parts for buildings in co-ownership.

These provisions shall come into force on 6 December 2012; it being specified that the implementation of the energy performance diagnosis for

buildings equipped with collective heating or cooling must take place before 1 January 2017.

France - Thermal characteristics and energy performance of buildings

Order dated 28 December 2012 published in the Official Journal of 1 January 2013 defines the energy performance requirements for certain new buildings and new parts of these buildings, including hotels, restaurants, shops, health facilities, elderly accommodations and buildings for industrial and artisanal use.

These provisions will come into force on 1 January 2013.

France - Statement of recognition of the acoustic regulation

Order dated 27 November 2012 published in the Official Journal of 18 December 2012 determines the procedure for drawing up a statement of recognition of the acoustic regulations for new residential buildings and sets out a statement model.

These provisions apply to buildings which require a building permit as from 1 January 2013.

France - Land registry publicity

Decrees n°2012-1462 and n°2012-1463 dated 26 December 2012 published in the Official Journal of 28 December 2012 determine the support and coordination measures related to the abolition of the mortgage registry officers ("*conservateur des hypothèques*") by Ordinance n°2010-638 of 10 June 2010.

These provisions will come into force on 1 January 2013.

France - Listed real estate investment companies (REITs): tax

Please refer to the Tax section.

France - Real estate capital gains: tax

Please refer to the Tax section.

13. Tax

France - The Finance Bill for 2013 (Law n°2012-1509 dated 29 December 2012) and the 3rd Amending Finance Bill for 2012 (Law n°2012-1510 dated 29 December 2012) have implemented the main following tax measures:

Limitation of the deductibility of financial expenses

Companies subject to corporate income tax which have an amount of net financial expenses of at least €3M may deduct a maximum of 85% of these expenses in order to determine their tax results for the years ended as of 31 December 2012 and 75% for fiscal years beginning on or after 1 January 2014.

Maximum deductible interest rate (outside Finance Laws)

The maximum deductible interest rate amounts to 3.01% for the fourth quarter of 2012 and to 3.39% for calendar year 2012.

Miscellaneous provisions concerning corporate income tax

-In case of transfer of shares eligible to long term capital gains exemption, the portion of the capital gain subject to the standard rate of corporate income tax is now calculated on the gross amount of capital gains and its rate is increased from 10% to 12%. This measure applies to financial years ending on or after 31 December 2012.

-The maximum allocation tax losses carried forward is reduced to 50% for fiscal years ending after 31 December 2012. Thus, losses can be offset until €1M increased by 50% beyond.

-The exceptional corporate income tax surcharge of 5% payable by taxpayers recording annual turnover in excess of €250M is extended to fiscal years ending on 30 December 2015.

-The dividends distributed in 2013 by the SIIC to fulfil their distributions requirements will be exempt from the additional corporate income tax contribution of 3%.

Amendments regarding the research and development tax credit ("CIR")

The favourable rates applicable under the CIR first 2 years (40% in the first year, 35% the second year, instead of 30%) are deleted.

A specific tax credit applicable to innovation expenditure incurred by small and medium enterprises has been established.

Introduction of a tax credit for competitiveness and employment ("CICE")

All companies taxed on their actual earnings, and some tax exempt companies, will be eligible, as from 2013, to a tax credit based on the amount of gross compensation which do not exceed 2.5 times of the minimum wage paid during the calendar year. This tax credit will have to finance the improvement of competitiveness and should not finance an increase of the profits distribution or an increase of the executive compensation. The rate of the CICE is set at 4% for salaries paid in 2013 and at 6% as from 2014.

Amendments regarding the calculation of the 2012 individual income tax

-The individual income tax scale includes a new tax bracket, setting up the marginal tax rate at 45% for the income exceeding €150,000 per unit allowance. Outstanding contribution to the very high income business tax (75%) was censored by the French Constitutional Council.

-The overall ceiling of the tax benefit resulting from the application of the family quotient is lowered from €2,336 to €2,000.

-The global tax advantages may not exceed €10,000 anymore. However, the tax reduction regarding "Overseas" and "Sofica" have an increased ceiling to €18,000. In addition, the tax reduction "Malraux" is excluded of the cap.

-A new tax reduction for rental investment ("Duflot" tax regime) is created in order to replace the "Scellier" tax regime.

Taxation of the dividends and interest at progressive scale of the individual income tax

Dividends and interest are taxed at progressive scale of the individual income tax for interests and dividends received on or after 1 January 2013.

The option for the withholding tax (21% for dividends / 24% for interest) is deleted as from 1 January 2013 and replaced by a mandatory withholding tax of the same amount.

Increase of the withholding tax rate due in case of payments to a Non-Cooperative State or Territory ("NCST")

The tax rates and withholding tax applicable on income paid or capital gains realized in a NCST, or paid to individuals or entities whose tax residency or head office is located in a NCST, are increased from 50% (or 55%) to 75%. This increase applies to income received (or capital gains) from 1 January 2013.

Capital gains derived from the sale of movable assets

-Tax treatment applicable to individuals investors

Capital gains deriving from the sale of securities and social rights realized in 2012 are taxed at a rate of 39.5% (24%+15.5% social security contributions) instead of 34.5% (19%+15.5% social security contributions).

As from 2013, capital gains deriving from the sale of securities and social rights will be taxed at progressive scale of individual income tax, after an application of a discount for holding period (20% reduction for detention between 2 and 4 years, 30% between 4 and 6 years and 40% after 6 years).

-Tax treatment applicable to entrepreneurs

For all transactions since 1 January 2012, entrepreneurs can, optionally, be taxed at a flat rate of 34.5% (19%+15.5% social security contributions) under certain conditions.

Stocks options and free shares

Gains resulting from stocks options and free shares will be taxed under progressive tax rates as ordinary income for options and free shares as from 28 September 2012. However, the maximum tax rate may not exceed 64.5%.

Wealth tax

The wealth tax rate has been changed and amounts from 0.5% to 1.5% depending on the fraction of the net taxable assets.

A cap mechanism was reintroduced at the rate of 75% (the excess is due to the amount of wealth tax to pay but no imputation on the individuals income tax and no tax refunds are possible).

Implementation of a tax on real estate capital gains superior to €50,000

A new tax, at a progressive tax rate from 2% to 6% depending on the amount of the taxable capital gain, applies to real estate capital gains made over €50,000 as from 1 January 2013. However, this tax does not apply to exempt capital gains or capital gains realized on the sale of building plots.

14. Telecoms

France - ARCEP investigation regarding interconnection and the routing of internet traffic

The ARCEP published on December 12, 2012 the [decision n°12-1545](#) dated November 22, 2012 related to the opening of an administrative investigation regarding the technical and financial conditions of traffic routing between Google and Free. This investigation is launched in the context of the disagreement between Free and Youtube, subsidiary of the Google group, which could be the source of the malfunctions and slowness experienced by Free's subscribers when accessing the website Youtube. The opening of this investigation follows the letter dated 10 September 2012 in which the Association UFC-Que Choisir brought the issue before the ARCEP. The investigation aims to collect information necessary to the understanding of the stakes of the disagreement between Free and Google and to supplement elements gathered within the framework of article 1 of the Authority's [decision n°2012-0366](#) of 29 March 2012.

15. Transport

European Law - Public Consultation on Enablers for European Multi-modal Travel Planning and Information Services

A Public Consultation on enablers for European Multi-modal Travel Planning and information Services has been launched by the European Commission on 19 December 2012. The Public Consultation aims at gathering the opinion of third parties on the challenges preventing the broad deployment of multi-modal travel planning. Interested persons are invited to respond to the Questionnaire by 12 March 2013 at the latest.

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