

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 April/May 2015

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 constitutional law to amend the Environment Chart to specify the scope of the precautionary principle**, filed at the Senate on December 3, 2013 – Adopted in first reading by the Senate on May 27, 2014.
- **Draft law relating to the limitation of the use of biometric technology**, n°361, filed at the Senate on February 12, 2014 – Adopted in first reading by the Senate on May 27, 2014.
- **Draft law relating to biodiversity**, n°1847, filed on March 26, 2014 – Adopted in first reading by the National Assembly on March 25, 2015.
- **Draft law relating to various provisions in connection with criminal procedure for the transposition of EU Law into French Law**, n°482, filed before the Senate on April 23, 2014 – Adopted in first reading at the Senate on November 5, 2014.
- **Draft law relating to energy transition towards green growth**, n°2188, filed on July 30, 2014. Adopted in first reading by the National Assembly on October 14, 2014. Amended in first reading by the Senate on March 3, 2015 – Joint committee (disagreement) – Adopted in new reading at the National Assembly on May 26, 2015.
- **Draft law relating to health**, n°2302, filed on October 15, 2014 – Adopted by the National Assembly on April 14, 2015.
- **Draft law for growth, activity and equal economic opportunities**, n°2447, filed on December 11, 2014 – Adopted in first reading by the National Assembly on February 19, 2015 – Adopted by the Senate on May 12, 2015. Joint committee.
- **Draft law relating to duty of vigilance of mother companies and companies placing orders**, n°2578, filed on February 11, 2015 – Adopted in first reading by the National Assembly on March 30, 2015.

- **Draft law relating to intelligence, n°2669**, filed on March 19, 2015 – Adopted by the National Assembly on May 5, 2015 – Under examination by the Senate from June 2, 2015.

Enacted laws

- **Law n°2015-433 of April 17, 2015 relating to various provisions on the modernisation of the press sector** - OJ of April 18, 2015.
- **Ordinance n°2015-378 of April 2, 2015 for the transposition of directive 2009/138/CE of the European Parliament and the Council of November 25, 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II directive)** – OJ of April 3, 2015.

1. Banking

France - Authorisation of credit institutions' branches

The ordinance (*ordonnance*) n°2015-558 dated 21 May 2015 regarding the branches, established in the French territory, of credit institutions having their registered office in a state which is not a member state of the European Union or a party to the agreement on the European Economic Area (*J.O n°0117 dated 22 May 2015*) amends the French monetary and financial code. This ordinance provides in particular that the authorisation of the above mentioned branches is delivered by the French Prudential Control Authority (*Autorité de Contrôle Prudentiel et de Résolution*). This authorisation is only delivered if the credit institution to which the branch belongs undertakes to fulfil the same supervision missions (towards the branch) as the supervision missions carried out by the corporate bodies of the credit institutions under French law.

The ordinance (*ordonnance*) n°2015-558 entered into force on 23 May 2015.

France - Opening of a Saving Accounts (*Livret d'épargne populaire*) "LEP"

The decree n°2015-538 dated 15 May 2015 regarding the saving accounts (*J.O n°0113 dated 17 May 2015*) amends the French monetary and financial code. The decree specifies that the eligibility to the LEP is assessed with regard to the reference taxable income (*revenu fiscal de référence*) of the taxpayer (and not any more with regard to their income tax). It also expressly provides that LEP accounts may be opened in the name of the partner, bound by a civil union (*pacte civil de solidarité*), of a person who meets the conditions of income set out by the law.

The decree n°2015-538 entered into force on 24 May 2015.

France - Single Supervisory Mechanism

The decree n°2015-564 dated 20 May 2015 setting forth various provisions modifying French legislation to comply with the credit institutions Single Supervisory Mechanism ("**SSM**") (*J.O n°0118 dated 23 May 2015*) supplements the provisions of the ordinance (*ordonnance*) n°2014-1332 dated 6 November 2014 and of the decree n°2014-1657 dated 29 December 2014 concerning the coordination between the European Central Bank ("**ECB**") and the French Prudential Control Authority (*Autorité de Contrôle Prudentiel et de Résolution*). This decree specifies in particular the conditions of this collaboration when issuing authorisations regarding the acquisition of shares or of controlling interest by a credit institution.

The decree n°2015-564 entered into force on 24 May 2015.

European Law - Regulatory technical standards for Own Funds requirements for credit institutions

The commission delegated regulation (EU) 2015/850 of 30 January 2015 (*JOUE L135/1 dated 2 June 2015*) amends the delegated regulation (EU) n°241/2014. This regulation specifies the technical standards to determine if the capital instruments meet the conditions (as regards distribution) to

qualify as common equity tier 1 instruments.

The regulation n°2015/850 will enter into force on 22 June 2015.

2. Capital Markets

France - ESMA guidelines re definition of commodity derivatives under MiFID I

ESMA published guidelines on 6 May 2015 to provide consistent application of the definitions of commodity derivatives under C6 and C7 of Annex I of the current MiFID I, until MiFID II comes into force on 3 January 2017. There is no commonly adopted definition of derivatives in the EU under MiFID I, particularly in the case of physically settled commodity forwards. This results in the inconsistent application of EMIR.

The guidelines therefore clarify what the meaning of "physically settled" is. The result is that forwards traded on a regulated market or Multilateral Trading Facility fall within the scope of MiFID I, Annex C6.

France - Restrictions on holding derivatives traded on the Paris Market are now to be fixed

From 1 July 2015, restrictions will be placed on holding agricultural commodity derivatives in accordance with the law on separating and regulating banking activities (*la loi de séparation et de régulation des activités bancaires*). The AMF's legislation that sets out the conditions to trading such derivatives and the corresponding guidance has been recently published.

The guidance sets out the conditions whereby a person exceeding the fixed quota can apply for special dispensation to trade from the AMF (with the consent of the clearinghouse and, eventually, Euronext).

France - ESMA opinion on the effect of EMIR on UCITS

ESMA has published an opinion on the UCITS Directive in the light of requirements under EMIR. ESMA considers that the counterparty risk limits for OTC financial derivative transactions applicable under UCITS should be amended to take into account the clearing obligation for certain types of OTCs under EMIR.

ESMA also considers that UCITS should distinguish between cleared financial derivative transactions and non-cleared financial derivative transactions instead of between OTC and ETD financial derivative transactions in the context of counterparty risk.

3. Competition

France - Antitrust – Publication of the new leniency procedural notice

The French Competition Authority published on 3 April 2015 its [new notice relating to its leniency programme](#), which takes into account the results of the [study of 15 April 2014](#) as well as the amendments to the [European Model Programme](#) issued by the European Competition Network in November 2012. The new notice pursues three objectives: (i) providing clarifications as to the practical implementation of the leniency programme (especially by reinforcing the visibility and role of the Leniency officer and by explaining the key stages of a leniency application review), (ii) providing clarifications as the obligations of companies with respect to cooperation with the Authority and providing details as to legal entities that may benefit from one single leniency application, and (iii) extending the admissibility of summary applications to any application, regardless of its type and order of arrival. Taking into account the results of the public consultation of February/March 2015, the Authority introduces two new substantial modifications to the notice: (i) the Authority will now systematically publish a press release following dawn raids (in order to reinforce equality between companies which may wish to submit a leniency application) and (ii) it reinforces incentives for companies to submit applications for reduction of the fine following the first application for immunity (so-called "type 2 applications").

France - Antitrust – Publication of a decree on the protection of business secrets before the French Competition Authority

A decree of 11 May 2015 introducing amendments to the implementation of provisions under the French Commercial Code relating to the protection of business secrets before the French Competition Authority was published on 13 May 2015. The decisions rendered by the Reporter General of the Competition Authority refusing or lifting the protection of business secrets in the context of the disclosure of documents to a party may now be contested before the *Conseil d'Etat*.

The decree entered into force on 15 May 2014.

European Law - Antitrust – E-commerce sector inquiry

The European Commission launched on 6 May 2015 a sector inquiry on antitrust issues in the e-commerce sector in the European Union. The inquiry will help the Commission to identify possible competition concerns in European e-commerce markets. It complements actions launched within the framework of the Digital Single Market Strategy which was adopted the same day. It will focus in particular on potential barriers to cross-border online trade in goods and services. In the upcoming weeks, the Commission will send requests for information to a range of shareholders throughout the EU (such as manufacturers, wholesalers and e-commerce retailers). The Commission aims to publish a preliminary report for public consultation in mid-2016. The Commission may open investigations in order to ensure compliance with Articles 101 and 102 of the Treaty on the Functioning of the European Union, should the results of the inquiry help to identify specific competition concerns.

European Law - Antitrust and Merger Control – Publication of the European Commission's Best Practices on the disclosure of information in data rooms

The European Commission published on 4 June 2015 its "Best Practices on the disclosure of information in data rooms in proceedings under Articles 101 and 102 TFEU and under the EU Merger Regulation". The purpose of these Best Practices is to provide practical guidance on how to use data rooms to disclose in a restricted manner business secrets and other confidential information obtained during antitrust and merger proceedings. The document aims at increasing transparency and predictability of the process within the existing legal and procedural framework, thereby enhancing the efficiency of antitrust and merger investigations.

European Law - State Aid – Sector inquiry into capacity mechanisms

The European Commission launched on 29 April 2015 a sector inquiry into mechanisms to ensure electricity supplies. The inquiry will help the Commission gather information on capacity mechanisms to examine whether they ensure sufficient electricity supply without distorting competition or trade in the EU Single Market. The sector inquiry will complement and encourage the implementation of the Guidelines on State aid for environmental protection and energy that entered into force in July 2014, as well as the Commission's legislative proposal on the organisation of the electricity market under the EU's Energy Union Strategy. The Commission has sent out questionnaires to selected stakeholders and aims to publish an interim report for public consultation before the end of the year.

4. Corporate

France - Simplification of Corporate Law

Decree of 18 May 2015 n°2015-545, edicted pursuant to the governmental order of 31 July 2014 n°2014-863, developed some procedures in order to simplify the practitioners' efforts. The main changes, which will enter into force on 1 June 2015 except under certain circumstances, are the following:

- Convening of the shareholders meeting of limited liability companies ("SARL"): the convening of the shareholders and the disclosure of informative documents prior to the meeting can now be carried out by electronic means;

- Enforceability of the transfer of shares of limited liability companies ("SARL") or partnerships ("SNC"): governmental ordinance had allowed third party effectiveness of the transfer of shares by the single deposit of the amended bylaws at the Trade and Companies Registry ("RCS"). The Decree modified the regulatory part of the French Commercial Code accordingly and specified that the transferor or transferee may, following a delay of eight days after a formal notice to ask the manager to make this publication, and by justifying the commencement of legal proceedings, file the shares transfer agreement to the RCS;
- Regulated agreements in public limited companies ("SA"): regarding regulated agreements concluded and authorized during previous business years which execution has been pursued during the last business year, and which must now be reviewed every year, the special report of the auditor must now not only list these agreements but also indicate the grounds for the continuation of these agreements by justifying the interest of this continuation by the company;
- Negotiability of the preferential subscription right ("DPS"): in the event of capital increase, the DPS is negotiable from the 2nd working day before the opening of the subscription period of the capital increase to the 2nd business day before the end of the subscription period. This provision will only be in force on 1 October 2016.

European Law - European Long Term Investment Funds (ELTIF)

EU Regulation of 29 April 2015 published on 19 May 2015 in the Official Journal and entered into force on 8 June, established uniform rules on licensing, investment policies and the conditions of operation of the ELTIF. This new vehicle aims at generating regular income for retirement management agencies, pension funds and more generally investors seeking long term returns:

- ELTIF will mainly concern: (i) non-listed companies issuing equity instruments; (ii) debt instruments for which there is no easily identifiable purchaser; (iii) physical assets requiring major capital expenditures; and (iv) SMEs admitted to trading on a regulated market or a multilateral trading system;
- With respect to the eligibility criteria, only the Alternative Investment Funds ("AIF") of the EU and which are managed by approved managers of AIF may be marketed as ELTIF. ELTIF will be subject to additional rules providing, among other things, that they must invest at least 70% of their capital in well-defined categories of eligible assets;
- With respect to the protection of the investor, the regulation provides, inter alia, that the manager or the fund distributor must ensure that a retail investor whose portfolio does not exceed EUR 500,000 does not invest a total amount higher than 10% of this portfolio in the ELTIF.

5. Insurance

France - Solvency II – Publication of the regulations concerning the directive's implementation

The [Decree n°2015-513 of 7 May 2015](#) (the "**Decree**") and the [Order of 7 May 2015](#) (the "**Order**") have been published in the Official Journal of the French Republic on 10 May 2015. These two texts supplement the [Ordinance n°2015-378 of 2 April 2015](#) in the context of the implementation of Solvency II in French law. In particular, the Decree removes the mechanism called the "capitalization reserve" for undertakings engaged in non-life insurance business and reinsurers and it creates the possibility for mutual insurance companies governed by the French Insurance Code to appoint a deputy CEO. The Order and the Decree, to the exception of certain provisions already entered in force, will come into force on 1st January 2016.

France - Loan Insurance – Standard information sheet and exchange of information

The [Decree n°2015-460 of 22 April 2015](#) has been codified in the new article R. 312-0-1 of the French Consumer Code. This article provides that the file must contain five specific pieces of information, among which (i) the types of guarantees the borrower intends to choose and the portion of the borrowed capital which is covered and (ii) the mention of the possibility to subscribe an insurance for the same purpose with another insurer of one's choosing and the time period conditions related thereto. **The file's template is attached to the [Order of 29 April 2015](#).** Further, the [Decree n°2015-](#)

494 of 29 April 2015 introduces new articles (R. 312-1-2 and R. 312-1-3) in the French Consumer Code and defines the conditions under which the lender, the delegated insurer and/or the borrower exchange information prior to the subscription of the loan insurance contract. These three texts will come into force on 1st October 2015.

European Law - Publication of the fourth directive against money laundering

The Directive of the European Parliament and of the Council of 20 May 2015 (the "**Directive**") has been published in the Official Journal on 5 June 2015. This Directive repeals the third Directive (Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005) and renews the provisions applicable in this regard. Among the contributions of the new Directive the scope of entities subject to this regulation has been extended (for example it decreases from 15,000 to 10,000 euros the threshold of persons trading in goods to the extent that payments are made or received in cash) and new annexes providing non-exhaustive lists of factors and types of guidance of a risk of money laundering and terrorist financing have been added. The Directive also further clarifies the rules on "politically-exposed" persons", *i.e.* persons presenting a greater level of risk of corruption due to the political positions they hold. The Member states will have to implement the Directive in their national law within two years after its date of entry into force.

European Law - Publication of the Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds

For further information on this theme, please consult the Corporate section.

6. Intellectual Property

France - Clarifications on the procedure for the detention of goods that are likely to infringe intellectual property rights by the Customs authorities

Decree n°2015-427 of 15 April 2015 enforcing Law n°2015-315 of 11 March 2014, which reinforced the fight against counterfeiting, clarifies the procedure for the detention of goods that are likely to infringe intellectual property rights.

The Decree indicates in particular the list of required information to request an intervention by Customs.

The Decree also provides information on the simplified procedure for the destruction by Customs of goods that are likely to infringe intellectual property rights.

The Decree defines in particular the conditions of samples collecting regarding said goods by Customs.

The Decree came into force on 18 April 2015.

France - Details regarding orphan works and rights of performers

Decree n°2015-506 of 6 May 2015 enforcing the Law n°2015-195 of 20 February 2015 (please refer to the Legislative and Regulatory Newsletter of February 2015) sets the search requirements for possible rights owners to be followed by organizations that make orphan works available to the public. It notably specifies the list of sources that needs to be consulted in order for the search to be deemed diligent proven and serious, depending on the category of work.

This Decree especially creates article R.212-8 of the Intellectual Property Code that defines how a performer can exercise his right of cancellation of the licence given to a phonogram producer, in case of insufficient exploitation beyond the first fifty years of exploitation.

This Decree entered into force on 8 May 2015.

France - Clarification of the principle "silence amounts to rejection" for Industrial Property titles

Decree n°2015-511 of 7 May 2015 amends the Decree n°2014-1280 of 23 October 2014. It specifies the conditions under which the silence of the INPI amounts to an implicit refusal decision for the following procedures: registration and extension of a design, request for renunciation or for limitation of a patent and registration and renewal of a trade mark.

For the above procedures, the Decree states that the time period after which silence of the INPI amounts to rejection may be interrupted in case of objection by a third party or notification of irregularity by the INPI.

Finally, patent applications and trade mark opposition proceedings cannot be the object of an implicit refusal decision by the INPI.

This Decree entered into force on 9 May 2015. It will apply to past requests that have not been subject to explicit decisions yet.

7. New technologies

France - Video protection systems

A decree of 29 April 2015 relating to video protection systems installed in public thoroughfare at immediate vicinity of buildings and shops sets the conditions for the implementation of such systems. The decree provides, in particular, that outside cameras should not be connected to inside cameras as only public authority agents are empowered to look at the camera's images. The decree entered into force on 1 May 2015.

France - General authorisation for stadium bans

On 7 April 2015 the French data protection authority (the CNIL) published a decision regarding the processing of stadium bans ordered by a judicial or administrative authority. This general authorisation will allow the processing of personal data of individuals banned from stadium, pursuant to the filing of a compliance undertaking with the terms of the general authorisation.

France - Contactless payment systems

More than 50% of the payment cards in France now have a "contactless" option allowing their holders to pay small amounts of money (less than 20 euros) without entering a PIN code. In this context, the CNIL recalled the principles to be complied with by banking institutions offering this option and in particular the duty to inform the card holders.

France - CNIL annual activity report

The CNIL published on 16 April 2015 its 35th annual activity report for 2014. In this report, the CNIL came back to the issues studied in 2014, such as the right to be forgotten and the legal obligations relating to drones, and evoked the 2015 grounds for thought, including connected cars and smart cities.

France - CNIL's inspection program

On 25 May 2015, the CNIL released its annual inspection program for 2015. This program plans on conducting 550 investigations in the upcoming year, in particular in relation to the Internet of Things improving health and wellbeing. The CNIL also plans on conducting inspection within some companies that have implemented Binding Corporate Rules.

France - Ethnic statistics

In an article published on 7 May 2015, the CNIL recalled that, except regarding specifically enumerated exceptions, the creation of files giving a direct or direct indication as to the individuals' religious affiliation, or their racial or ethnic origin, whether it is actual or supposed, is prohibited by law and the use of such files, in particular to target specific populations, is prohibited by the French Criminal code.

European Law - Domain name registration

On 26 March 2015, the European Commission adopted a regulation on domain name registration. This regulation provides, in particular, that the registry should implement technical measures minimizing potential visual confusion arising between domain names. This regulation entered into force on 15 April 2015.

European Law - Digital Single Market

On 6 May 2015, the European Commission set out sixteen initiatives enabling the emancipation of the digital single market. These measures include the harmonization of consumer protection and the strengthening of confidence and security in digital services. The European Commission launched the same day antitrust competition inquiry into the e-commerce sector in the European Union.

8. Procedures

France - Civil procedure

Simple notifications of the clerk's office sent by text messages

The circular presenting the decree dated 11 March 2015 regarding civil procedure simplification, electronic communication and the amicable settlement of disputes was published in the Official Bulletin of the Ministry of Justice on 30 April 2015.

The circular particularly underlines that the simple notifications presently sent by regular mail by the clerk's office can now be sent by all means, notably via electronic email or by text message, if the person in question gave prior consent to this type of communication.

France - Criminal procedure

Requisitions for legal extraction of inmates

The Decree n°2015-439 dated 16 April 2015 simplifies the procedure to submit requisitions for legal extraction of inmates. The public prosecutor's office of the applicant authority's location can now directly refer to the police forces without referring first to the French Public Prosecutor of the place of detention.

9. Profession and ethics of the profession

France - Legal aid

The note n°JUST1509256N dated 15 April 2015 presenting some provisions of the Decree n°2015-271 of 11 March 2015 regarding compensation for lawyers' interventions in the scope of legal aid was published on 30 April 2015 in the Official Bulletin of the Ministry of Justice.

This note describes more specifically the new set of rules governing lawyers' compensation in the scope of legal aid in certain new areas.

Furthermore, this note recalls that lawyers assisting freely heard persons (i.e. that can leave the court whenever they want) can also be compensated.

European Law - Corrigendum to Directive 2014/23/EU on the award of concession contracts

Corrigendum to Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts modifies Articles 31, 33 and Annex II of the Directive.

10. Real Estate

France - The co-ownership trustee standard contract and the special services

The [Decree n°2015-342](#) dated 29 May 2015 published in the Official Journal on 31 May 2015, pursuant to the Law n°2014-366 dated 24 March 2014 ("Loi ALUR"), defines the housing lease standard contract which the parties must comply with. This contract is applicable to the housing lease signed from 1 August 2015.

France - The co-ownership trustee standard contract and the special services

The [Ministerial Order n°2015-342](#) dated 29 May 2015 published in the Official Journal on 31 May 2015, pursuant to the Decree n°2015-342 dated 29 May 2015, defines the information notice to be appended to the housing leases entered into pursuant to the provisions of the said Decree. This Ministerial Order will enter into force on 1 August 2015.

11. Tax

France - Corporation tax

"Horizontal" tax consolidation: publication of the FTA's guidelines

The [French Amended Finance Act for 2014 \(Act n°2014-1655 dated 29 December 2014 – "LFR 2014"\)](#) extended the scope of the French tax consolidation regime to "horizontal" tax consolidated groups (*i.e. tax consolidation between French subsidiaries of a same parent company established in a EU member state, Iceland, Norway or Liechtenstein*).

The French Tax Authorities' ("FTA") general guidelines in relation to the practical implementation of this new "horizontal" tax consolidation regime have been subject to public consultation until 7 June 2015 ([BOI-IS-GPE-10-30-50-20150506](#); [BOI-IS-GPE-10-40-20150506](#); [BOI-IS-GPE-20-20-10-20150506](#); [BOI-IS-GPE-40-10-20150506](#); [BOI-IS-GPE-50-10-10-20150506](#); [BOI-IS-GPE-70-20-20150506](#)).

Exceptional tax deduction to support industrial investments

In their new general guidelines published on 21 April 2015, the FTA provide for an exceptional tax deduction taking the form of an additional depreciation on certain equipment assets (*i.e., in addition to the regular depreciation registered each year on such equipment assets*).

Under this new measure, French companies might benefit from an additional deduction from their taxable income for French corporation tax purposes, equal to 40% of the acquisition cost of certain eligible equipment assets acquired or manufactured from 15 April 2015 to 14 April 2016 ([BOI-BIC-BASE-20150421](#); [BOI-BIC-BASE-100-20150421](#); [BOI-BA-BASE-20-10-10-20150421](#)).

French "fiducie": tax neutrality of transfer of shares

The LFR 2014 specified that shares transferred in a French "fiducie" (*i.e., a French trust-like entity*) might benefit, under certain circumstances, from both the French participation-exemption tax regime and the French tax consolidation regime.

The general guidelines issued by the FTA on 1st April 2015 specify that shares transferred in a French "fiducie" might also benefit from the long term

capital gains tax regime (*i.e.*, French tax exemption regime for certain capital gains) for the purposes of the corporate income tax due by the French "fiducie" ([BOI-IS-BASE-10-10-10-20-20150401](#); [BOI-IS-BASE-10-10-20-20150401](#); [BOI-IS-GPE-10-20-20-20150401](#); [BOI-IS-GPE-20-20-20150401](#)).

New details on French tax treatment of hybrid instruments

The LFR 2014 excluded the so-called "hybrid distributions" (*i.e.*, distributions which (i) are treated as deductible expenses for a non-resident subsidiary, and (ii) were previously exempt from French corporate income tax at the level of the French parent company) from the benefit of the French participation-exemption and the French tax consolidation regimes.

The FTA specify in their general guidelines published on 1st April 2015 how this new French tax treatment of "hybrid distributions" applies when the distributed income is only partially deductible at the distributing entity's level. In this respect, the FTA's general guidelines provide that the dividend paid to the French parent company might still benefit from the French participation-exemption regime (*and therefore be exempt from French corporate income tax*) up to the amount that is not deductible at the subsidiary's level ([BOI-IS-BASE-10-10-20-20150401](#)).

France - Financial taxation

New French bank levy

The LFR 2014 has undertaken to gradually decrease the rate of the French bank levy on systemic risks (*prior to its full suppression as from 1st January 2019*). Meanwhile, a new bank levy, aiming to finance and support funds for French territorial collectivities that have taken "toxic" loans, is established as from 1st January 2015.

The FTA issued their general guidelines on the practical implementation of this new French bank levy ([BOI-RFPI-BASE-20-50-20150401](#); [BOI-BNC-BASE-40-60-20-20150401](#); [BOI-IS-GEO-20-20-20150401](#); [BOI-TFP-20150401](#); [BOI-TFP-RSB-20150401](#); [BOI-TFP-TFSC-20150401](#); [BOI-IF-AUT-50-20150401](#); [BOI-ANNX-000121-20150401](#)).

France - Taxation of investors and managers

Redemption of shares: single tax regime

The FTA updated their general guidelines, pursuant to the LFR 2014, taking into account the new French income tax treatment applicable to gains arising from the redemption by a company of its own shares. Such gains are now subject to a single tax treatment and are taxed as capital gains only ([BOI-RPPM-RCM-10-30-10-10-20150401](#); [BOI-RPPM-RCM-30-30-20-40-20150401](#); [BOI-BIC-PDSTK-10-30-30-20150401](#); [BOI-BIC-PVMV-30-30-80-20150401](#)).

Previously, the gains arising from the redemption by a company of its own shares were subject to a mixed tax treatment and were taxed partially as dividends and partially as capital gains.

Tax credits: more flexibility

Individual taxpayers who subscribe to the capital of small and medium enterprises ("**SME**") may benefit from (i) an individual income tax credit, and/or (ii) a wealth tax reduction provided that certain conditions are met.

In this respect, the indirect investment in a SME, through a passive holding company (*i.e.*, a company whose sole purpose is holding shares), could benefit from both the individual income tax credit and the wealth tax reduction provided that, *inter alia*, such holding company (i) had at least 2 employees, and (ii) did not exceed a maximum of 50 shareholders.

The FTA updated their official guidelines and removed these two conditions ([BOI-IR-RICI-90-10-30-20150410](#); [BOI-IR-RICI-90-30-20150410](#); [BOI-PAT-ISF-40-30-10-20-20150410](#)).

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