FinTech and the definition of banks and investment firms

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1. Financial technology, or Fintech, is defined as an activity in which businesses use information and communication technologies to perform financial services in a more efficient and cheaper way[1]. By extension, the term "Fintech" is given to businesses that act in this sector. More often than not, they are start-ups that specialize in information and communication technologies. They try to capture a growing market share at the expense of banks and investment firms. They commonly provide crowdfunding, online-payment and Internet banking[2] services.

2. The success of these new players results from the fact that they are less restricted by the demands of regulatory compliance to which banks and investment firms are subject[3]. Such a statement about investment firms may surprise because these companies are regulated entities [4] i.e. entities that are under the supervision of authorities because of activities that they are authorised to perform[5]: investment services such as investment advice[6]. Therefore, the main question is whether there are legal loopholes or legal ambiguities that make the emergence of new players easier. The same question could apply to banks.

3. Banks are defined by the Financial Stability Board as "deposit-taking institutions but excluding central bank and those intermediaries that have no access to Central bank facilities/public guaranties and are not under the same prudential

[1] Wikipédia, Technologie financière, 14 July 2016 ; D. W. Arner, J. Barberis and R. P. Buckly, The evolution of FinTech : a new post-crisis Paradigm ? : http///ssm.com/abstract=2676553 ; J. L. Douglas, New wine inti old bottles : Fintech meets the bank regulatory world, 20 N.C. Banking Inst. 17. See also : Fintech, Quel cadre réglementaire, Dossier in Revue Banque n° 799 septembre 2016 p 20.
[2] Ibid. See also : J. Raguénès, Banque et Fintech face à la réglementation, Revue Banque n° 799 septembre 2016 p 42.
[3] O. Wyman, The Fintech 2.0 paper: rebooting financial services, Santander InnoVentures/Anthemis group, p 4.
[4] Directive 2014/65/EU OF the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.
[5] Art. 4 (1), point 1, Directive of 15 May 2014.
[6] Annex 1, section A, Directive of 15 May 2014.

regulation as banks"[7]. Such a definition is classical but the term "banks" draws attention because it seems to be more an international word than a European term. EU legislation preferred to resort to the phrase "Credit institutions": according to the Regulation of the 26 June 2013[8], "credit institution means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account"[9]. This phrase is also used by the French legislation[10] that contains, unlike the EU legislation, sub-categories of credit institutions, one of them being banks[11]. This point is, however, of little importance. An international comparison should refer to credit institutions and to consider this phrase as equivalent to the word banks.

4. That said, one might regret that the title of our subject refers to banks since the international approach doesn't have to be taken into account. One might also regret that only credit institutions and investment firms must be considered. Payment institutions could also have been examined. Indeed, the development of platforms, commonly called marketplaces[12], that enable buyers and sellers to be in direct contact and whose managers collect the purchase price on behalf of sellers, also illustrates our main theme. In addition, as regards payment institutions, the question is the same as the issue arises concerning institutions and investment firms.

5. The question seems to be connected, due to the wording of our subject, to the definition of credit institutions and investment firms. However, on reflexion, it is not so sure. It may be more a question of the applicable rules than a question of definition. Unless that the legal loophole or the legal ambiguities result from the combination of the definition and the applicable rules, or the wording of provisions.

[7] FSB, Shadow banking: strengthening oversight and regulation. Recommendations of the Financial Stability Board, 27 October 2011, footnote 12 p 8.
[8] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.
[9] Art. 4 (1), Regulation of 26 June 2013.
[10] Art. L 511-1, French Monetary and Financial Code.
[11] Art. L 511-9, French Monetary and Financial Code.
[12] See notably, Th. Bonneau, La directive sur les services de paiement 2: révolution ou évolution ?, Journal de droit européen 2016, specially n° 11.

6. The double reference to credit institutions and investment firms pushes us into studying the subject through the example of crowdfunding. As we all know, there are several crowdfunding models[13], notably the person-to-person ("P2P") lending model (also called the debt-based crowdfunding model) that can take the form of contractual loans or of bonds, and the equity-based crowdfunding model. Borrowers and lenders are put in contact through a website. A company issues securities – bonds or shares – that are offered to investors on a website. The professionals that manage such websites may have a more or less limited role: organizing the linking up of parties; providing professional advice to investors/lenders or borrowers/issuers.

7. This example is all the more interesting that the legal situation is not the same at the European level and the French level: crowdfunding is not covered by European legislation[14]; crowdfunding is, on the contrary, subject to a legal framework in France, which is not specific to France because other countries also have passed laws[15]. In addition, even if the French legislation on credit institutions and investment firms derives from the EU legislation, the status of these professionals is not totally similar. Therefore, our theme must be addressed from two perspectives: the European perspective (I) and the French perspective (II).

I – The European perspective

8. The European framework lies in directives and regulations. A directive[16] and a regulation[17] of 26 June 2013 cover credit institutions (A). A directive[18] and a regulation[19] of 15 May 2014 set out provisions applicable to investment firms (B). The wording and the content of these texts are not totally similar.

[13] About the models of crowdfunding, see, D. Groshoff, A. Nguyen and K. Urien, Crowdfunding 6.0 :does the Sec's FinTech law failure reveal the agency's true mission to protection – soely accredited – investors ?, 9 Ohio St. Entrepreneurial Bus. L.J. 277.
[14] V. European Commission: Crowdfunding in the EU - exploring the added value of potentiel EU action, Press release, Brussels, 3 October 2013 ; Communication from the Commission to the European Parliament, the Council, the European Economic and social committee and the Committee of the Regions. Unleashing the potential of Crowdfunding in the European Union, Brussels, 27. 3. 2014, COM(2014) 172 final.
[15] See, Th. Bonneau, La régulation du crowdfunding dans le monde, RISF 2014/2 p 5.
[16] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC
[17] Regulation (EU) No 575/2013.
[18] Directive 2014/65/EU.
[19] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012

A. Credit institutions

9. The Regulation of 26 June 2013 defines the notion of credit institutions through two activities or operations: deposits and credits[20]. These activities or operations are not defined by European texts. The directive of 26 June 2013[21] only mentions, in the lists of activities subject to mutual recognition, some operations that are usually considered as credits, such as lending.

10. Deposits and credits are not in a similar situation because if they are considered as inherent to the concept of credit institutions, only deposits are covered by a monopoly: according to article 9 (1) of the directive, "member States shall prohibit persons or undertakings that are not credit institutions from carrying out the business of taking deposits or other repayable funds from the public". A similar ban is not laid down by the European legislation, which implies that the provision of credits by people and undertakings other than credit institutions is possible. This point is confirmed implicitly by article 8 of the directive that does not establish a connection between the provision of credits and the authorisation to obtain but between the quality of credit institution and the authorisation granted by an authority: according to article 8 (1), "Member states shall require credit institutions to obtain authorisation before commencing their activities". This point is also borne out by the Directive of 4 February 2014[22] on credit agreements for consumers relating to residential immovable property: this text expressly envisages lenders other than credit institutions[23] in its provisions.

11. These points are vital as regards crowdfunding performed on the basis of loans granted by people or businesses that are not credit institutions. These operations are legal because there is no legal obstacle preventing these lenders from granting such credits. I should repeat what I have just said. If the quality of credit

[20] Art. 4 (1), Regulation of 26 June 2013.
[21] See Annex I, point 2, Directive of 26 June 2013.
[22] Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010.
[23] Art. 35, Directive of 4 February 2014.

institutions implies the provision of credits, it doesn't mean that only these institutions are authorised to grant credits. The fact that the authorisation is connected to the quality of credit institutions and the fact that there is no monopoly, no ban on other people and business, explain that, from a European point of view, people and undertakings other than credit institutions are authorised to grant credits. The only limit is not to grant credits that are covered by a specific legislation, such as the credits covered by the directive of 4 February 2014[24].

12. I would like to make another observation about this directive. This text has established a status for credit intermediaries. However, when you consider the definition of these professionals[25], their status[26] and the context[27], it is clear that the directive of 4 February 2014 can't be applied to people and undertakings that manage websites used in the context of crowdfunding.

B. Investment firms

13. Websites are also used in the context of a securities-based crowdfunding model. Operations carried out in this context raise some questions about the Prospectus directive of 4 November 2003[28]. They also draw attention to the directive[29] and the regulation[30] of 15 May 2014 that contain provisions about investment firms and trading venues.

14. The directive of 15 May 2014 defines investment firms on the basis of investment services: according to article 4(1), point 1, "investment firm means any legal

[24] See art. 3 (1), Directive of 4 February 2014.
[25] Art. 4 (5), Directive of 4 February 2014: "Credit intermediary means a natural or legal person who is not acting as a creditor or notary and not merely introducing, either directly or indirectly, a consumer to a creditor or credit intermediary, and who, in the course of his trade, business or profession, for remuneration, which may take a pecuniary form or any other agreed form of financial consideration:
(a) presents or offers credit agreements to consumers;
(b) assists consumers by undertaking preparatory work or other pre-contractual administration in respect of credit agreements other than as referred to in point (a); or
(c) concludes credit agreements with consumers on behalf of the creditor".
[26] See art. 29 et seq., Directive of 4 February 2014.
[27] See Th. Bonneau, Régulation bancaire et financière européenne et internationale, 3° éd. 2016, Bruylant, n° 464.
[28] Directive 2003/71/EC of the European Parliament and the of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC. See, Th. Bonneau, Régulation bancaire et financière européenne et international, 3° éd. 2016, Bruylant, n° 355 et seq.
[29] Directive 2014/65/EU.
[30] Regulation No 600/2014.

person whose regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis". Annex 1, section A, of the directive lists activities considered as investment services and activities, such as investment advice, placing of financial instruments and operation of a MTF (multilateral trading facility) and an OTF (organised trading facility).

15. MTF and OTF are commonly considered as platforms. However, if we consider the definitions given in the directive for MTF[31] and OTF[32], it is clear that websites used in the context of securities-based crowdfunding model are not covered by these definitions. Even the new category of OTF, though conceived as a "catch all category"[33], is inappropriate because on the platforms managed in the context of crowdfunding, the objective is less organising trades than establishing a connexion between issuers and investors. This point is confirmed by the definition of a multilateral system: "any system or facility in which multiple third-party buying and selling trading interests in financial instrument are able to interact in the system"[34]; investors act on their own without being represented.

16. The objective to establish a direct connexion, and the fact that financial intermediary in charge of the placing of financial instruments acts on behalf of issuers[35], lead us to exclude this activity as well. By contrast, it is possible for the manager of websites to give professional advice[36] with the result that this professional could fall under the European texts in line with the provision of investment advice. However, it doesn't necessarily imply that the European texts of 15 May 2014 are applicable.

[31] Art. 4(1), point 22, Directive of 15 May 2014: "multilateral trading facility or MTF means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with Title II of this Directive".
[32] Art. 4 (1), 23, Directive of 15 May 2014: "organised trading facility or OTF means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of this Directive".
[33] See, Th. Bonneau, Régulation bancaire et financière européenne et internationale, Bruylant, 3° éd. 2016, n° 179.
[34] Art. 4 (1), point 19, Directive of 15 May 2014.
[35] See, Th. Bonneau and F. Drummond, Droit des marchés financiers, 3° éd. 2010, Economica, n° 194 et seq., notably 196.
[36] Art. 4(1), point 4, Directive of 15 May 2014: "investment advice means the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments".

17. The directive doesn't expressly lay down a monopoly regarding investment services. Unlike the directive of 26 June 2013, there is no provision called "Prohibition against persons or undertakings other than investment firms from carrying out the business of investment services". However, the directive of 15 May 2014 requires an authorisation whose wording is different from the wording of the directive of 26 June 2013 and is ambiguous. It is not imposed on investment firms, as it is for credit institutions[37], to obtain an authorisation before commencing their activities; according to article 5 (1) of the directive, "each member State shall require that the provision of investment services and/or the performance of investment activities as a regular occupation or business on a professional basis be subject to prior authorisation in accordance with this chapter". Therefore, one might ask the question whether such a provision doesn't contain two rules, one about the authorisation and another concerning the monopoly.

18. Such an ambiguity is disturbing and confusing. One might be under the impression that there is no monopoly and consequently no significant barrier to organise freely the rules applicable to crowdfunding operations in the form of bonds. Such a conclusion remains, however, uncertain because of the wording of European texts. One might even go beyond. This conclusion must be ruled out because of the provisions of article 3 of the Directive called "optional exemptions": according to point 1 of the text, it is possible, for member states, to authorise professionals, that are not investment firms, to provide some investment services, such as the provision of investment advice, on some conditions laid down in the text. This authorisation, that does not appear to be applicable to crowdfunding advice[38], seems to confirm the fact that investment firms are vested with a monopoly.

[37] Art. 8 (1), Directive of 26 June 2013: "Member States shall require credit institutions to obtain authorisation before commencing their activities".

[38] Art. 3 (1), Directive of 15 May 2014: "Member States may choose not to apply this Directive to any persons for which they are the home Member State, provided that the activities of those persons are authorised and regulated at national level and those persons:
(a) are not allowed to hold client funds or client securities and which for that reason are not allowed at any time to place themselves in debit with their clients;
(b) are not allowed to provide any investment service except the reception and transmission of orders in transferable securities and units in collective investment undertakings and/or the provision of investment advice in relation to such financial instruments; and
(c) in the course of providing that service, are allowed to transmit orders only to:
(i) investment firms authorised in accordance with this Directive;
(ii) credit institutions authorised in accordance with Directive 2013/36/EU;

II – The French perspective

19. The French authorities have implemented European texts concerning credit institutions and investment firms. However, if you compare the French framework and the European framework, there are some differences. That explains the fact that crowdfunding doesn't ask the same questions as regards the status of credit institutions and investment firms (A). It also explains the fact that the French lawmakers had to pass a new law in order to promote crowdfunding operations (B).

A. Legal status of Credit institutions and investment firms

20. The French monetary and financial Code lays down the status of credit institutions and investment firms. This status is based on the definitions of these intermediaries[39] in accordance with the European texts. This situation is still quite new for credit institutions because for a long time, such businesses have been defined in a way that was different from the European definition. However, since the reform decided in June 2013, there is no longer any difference between the French texts and the European texts[40].

21. By contrast, the French and the European texts are different as regards monopolies. Indeed, the French monopoly is not only about deposits. The

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(iii) branches of investment firms or of credit institutions authorised in a third country and which are subject to and comply with prudential rules considered by the competent authorities to be at least as stringent as those laid down in this Directive, in Regulation (EU) No 575/2013 or in Directive 2013/36/EU;
(iv) collective investment undertakings authorised under the law of a Member State to market units to the public and to the managers of such undertakings; or
(v) investment companies with fixed capital, as defined in Article 17(7) of Directive 2012/30/EU of the European Parliament and of the Council the securities of which are listed or dealt in on a regulated market in a Member State; or
(d) provide investment services exclusively in commodities, emission allowances and/or derivatives thereof for the sole purpose of hedging the commercial risks of their clients, where those clients are exclusively local electricity undertakings as defined in Article 2(35) of Directive 2009/72/EC and/or natural gas undertakings as defined in Article 2(1) of Directive 2009/73/EC, and provided that those clients jointly hold 100 % of the capital or of the voting rights of those persons, exercise joint control and are exempt under point (j) of Article 2(1) of this Directive if they carry out those investment services themselves; or
(e) provide investment services exclusively in emission allowances and/or derivatives thereof for the sole purpose of hedging the commercial risks of their clients, where those clients are exclusively operators as defined in point (f) of Article 3 of Directive 2003/87/EC, and provided that those clients jointly hold 100 % of the capital or voting rights of those persons, exercise joint control and are exempt under point (j) of Article 2(1) of this Directive if they carry out those investment services themselves".

[39] See, art. L 511-1 (Credit institution) and L 531-4 (investment firm), French monetary and financial Code.

[40] See Th. Bonneau, Droit bancaire, 11° éd. 2015, LGDJ, n° 140.

banking monopoly also covers credits[41]. What's more, there is a financial monopoly that covers all the investment services[42]. That includes investment advice. However, credit institutions and investment firms are not the only professionals that are authorised to perform such activities. The French lawmaker has used the optional exemption laid down in the EU legislation and organised the status of financial investment advisor (conseiller en investissements financiers)[43].

22. In other words, due to banking and financial monopolies, that are not absolute as shown by the status of financial investment advisor, only credit institutions and investment firms are authorised to carry out banking and financial activities. Consequently, it was illegal for other people to grant loans on a regular basis in the context of crowdfunding operations. It was also illegal for people other than credit institutions and investment firms, with the same reservation for financial investment advisors, to provide investment advice in the context of a securities-based crowdfunding model. Therefore, a reform was vital.

B. New legislation on crowdfunding

23. The reform dates from 2014 and is based on several texts[44]. The objective was to suppress the legal obstacles and to organise the protection of lenders/investors.

[41] Art. L 511-5, French monetary and financial Code. See, Bonneau, Droit bancaire, op. cit. n° 267 et seq.

[42] Art. L 531-10, French monetary and financial Code. See, Th. Bonneau and F. Drummond, Droit des marchés financiers, 3° éd. 2010, Economica, n° 339 et seq.

[43] See, Th. Bonneau et F. Drummond, Droit des marchés financiers, 3° éd. 2010, Economica, n° 421 et s.

[44] Ordonnance n° 2014-559 du 30 mai 2014 relative au financement participatif ; Décret n° 2014-1053 du 16 septembre 2014 relatif au financement participatif ; Arrêté relatif à la capacité professionnelle des intermédiaires en financement participatif ; Arrêté du 22 septembre 2014 portant homologation du règlement général de l'Autorité des marchés financiers ; Instruction AMF relative au processus d'examen par l'AMF de la demande d'immatriculation des conseilleurs en investissements participatifs et transmission des informations annuelles par ces derniers ; Instruction AMF relative aux informations aux investisseurs à fournir par l'émetteur et le conseiller en investissements participatifs ou le prestataire de services d'investissement dans le cadre d'une offre de financement participatif. V. Th. Bonneau, « Le financement participatif. Ord. 30 mai 2014 », D. 16 sept. 2014 et AA. 22 et 30 sept. 2014, *JCP* 2014, éd. E, 1523 ; V. Perruchot-Triboulet, L'encadrement juridique du prêt opéré par le biais d'une plateforme de financement participatif, *Bull. Joly sociétés* décembre 2014 p. 756 ; J-M. Moulin, « Régulation du crowdfunding : de l'ombre à la lumière », *Bull. Joly Bourse* juillet-août 2014. 356 ; A-V. LE FÜR, « Enfin un cadre juridique pour le crowdfunding, une première étape dans la réglementation », *D.* 2014 p. 1831 et s. ; B. KEITA, « Un cadre juridique pour le financement participatif », *Les Petites Affiches*, 5 septembre 2014, n° 178 p. 7 ; J. Lasserre Capdeville, « Les incidences sur le monopole bancaire et le monopole des prestataires de services de paiement de l'ordonnance sur le financement participatif », *Gaz. Pal.* 18 septembre 2014, n° 261 p. 5 ; P. STORRER, « Le droit nouveau du crowdfunding par prêts ou par dons », *Revue Banque* n° 774 juillet-août 2014. 74 ; V. Perruchot-Triboulet, Le bonheur est dans le prêt ! Le financement participatif sous forme de prêt et la finance durable, Rev. dr. bancaire et financier juillet-août 2015, Dossiers 45 ; E. Netter, Le financement participatif, Mélanges Didier R. Martin, LGDJ 2015, p 479 ; Ph. Didier et N. Martial-braz, Certitudes et incertitudes en matière de crowdfunding, D. 2015 p 267 ; A. Quiquerez, Les contrats du financement participatif : quelles qualifications juridiques ?, RTDF n° 1-2016. 7. *Adde*, ACPR et AMF, « S'informer sur le nouveau cadre applicable au financement participatif (crowdfunding) », septembre 2014.

The French lawmaker put in place two frameworks: one for securities-based crowdfunding and another one for loans-based crowdfunding.

24. The website through which securities (shares or bonds) are offered to investors must be managed by a credit institution, an investment firm or a professional called "crowdfunding advisors" (conseillers en investissement participatif). The latter is a new category of professional whose status is described in detail[45]. Access to this status is under the supervision of a professional body and the status is made up of some duties, such as rules of conduct. For instance, crowdfunding advisors have to act fairly and professionally in accordance with the best interest of their clients. They also have to assess the situation of their clients and the compliance of the offer with their situation[46]. These duties illustrate the concern of the French lawmaker. Investors must be protected. The same objective explains that the duty for the issuer is to give information on its offers. One should insist on this point because information is mandatory despite the fact that the offer of securities is not subject to the obligation to establish a prospectus; this dispensation is formally set out in the French legislation[47].

25. Likewise, the derogation to the banking monopoly in favour of natural people who grant loans in the context crowdfunding is formal[48]. The legal framework is mainly made up of two sets of provisions. The first set is about loans. For instance, according to the French Monetary and financial Code, the loan amount per project granted by each person is limited to 1000 € when there is an interest to be paid by the borrower[49] and the maximum amount of money that can be borrowed is equal to one million euro[50]. The second set of provisions concerns professionals, called crowdfunding intermediaries (intermédiaires en financement participatif), who put in contact lenders and borrowers via their websites. These professionals[51] are under the supervision of a professional

[45] Art. L 547-1 et seq., D. 547-1 et seq., French Monetary and Financial Code ; art. 325-32 er seq., AMF General Regulation.
[46] Art. L 547-9, French Monetary and Financial Code.
[47] Art. L 411-2, 1 bis, French Monetary and Financial Code.
[48] See, Bonneau, Droit bancaire, op. cit. n° 276.
[49] Art. D 548-1, French Monetary and Financial Code.
[50] Ibid.
[51] See, Bonneau, Droit bancaire, op. cit. n° 414 et seq.

body[52] and are subject to some duties, notably as regards the information given to the public and the conditions of selection of projects and borrowers[53]. They have also to warn lenders about the risks of such operations, particularly in case of insolvency of borrowers[54], as well as borrowers themselves against the risk of excess debt[55].

26. The protection of lenders is vital because they take risks. This sole assertion clearly shows the change triggered by crowdfunding. When a credit institution grants loans, the protection issue is about borrowers. If this question is also relevant when it comes to crowdfunding, the fact remains that the real issue is about lenders. This point reflects a new paradigm as regards financing.

27. Crowdfunding is considered, in conclusion, with enthusiasm by authorities because it is a new source of financing at a moment when businesses have difficulties in getting money from credit institutions. We are not against this kind of financing and maybe crowdfunding is a useful mechanism in order to overcome the difficulties resulting from the crisis of 2008. However, some questions must be asked. The question of the lenders and bondholders' protection is not the only one. Nor is the question only about the causes that may explain why credit institutions are not in the situation to lend money in an extensive way. More fundamentally, the issue is about the role of each and every one of us in the financing of the economy, the role of markets and the role of credit institutions in such financing. These questions are, in our opinion, more vital than the technical questions raised by crowdfunding as regards the definition of banks and investment firms.

[52] Art. L 548-3, French Monetary and Financial Code.
[53] Art. L 548-6, 2° and R 548-5, 3°, French Monetary and Financial Code.
[54] Art. L 548-6, 5° and R 548-7, 4°, French Monetary and Financial Code.
[55] Art. L 548-6, 5° and R 548-7, 5°, French Monetary and Financial Code.