

Research project regarding money lending business regulations in France and the implementation of laws and regulations regarding money lending businesses in that jurisdiction

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1. Regulations and restrictions imposed on licensed money lending business operator in France

1.1 Outline of the money lending business regulation		
Outline of the money lending business licensing and operating requirements	<p>Any entity which carries out credit transactions on a regular basis in France must be either (i) duly licensed as a credit institution in France (<i>établissement de crédit</i>) or as a financing company (<i>société de financement</i>) in France or (ii) duly “passported” under the European Directive 2000/12 to provide such service in France.</p> <p>Credit transactions include, amongst others, the extension of loan facilities to French entities or individuals. French Courts have long adopted a very restrictive approach to the "regular basis" test mentioned above, and traditionally consider that a regular activity is evidenced where more than one loan has been made available by a given entity.</p> <p>Breach of the French banking licensing requirements carry the following criminal sanctions:</p> <ul style="list-style-type: none"> • for natural persons: imprisonment for a maximum of three years, and/or a fine of up to €375,000 ; • for legal persons: a fine of up to €1,875,000, and/or, depending on the seriousness of the offence, supplemental sanctions such as the temporary or permanent ban on exercising the professional activities in the context of which the offence has been committed, and/or the publication of the decision. <p>Articles L. 511-6 and L. 511-7 of the CMF provides for specific exception to the banking monopoly rules, available in specific circumstances, including notably:</p> <ul style="list-style-type: none"> • Loans granted to commercial, agricultural or industrial companies by French or EU alternative investment funds (which are regulated entities) explicitly authorised to carry out banking transactions; • Loans granted by a French company, as an ancillary activity to its main business, to another company with which it has economic ties justifying the granting of such loans; • Participating loans (<i>prêts participatifs</i>) which are long-term subordinated loans with a fixed interest rate granted by commercial company to another commercial, agricultural or industrial company; 	<p>Article L. 313-1 of the CMF (definition of banking transaction)</p> <p>Article L. 511-5 and <i>seq.</i> of the CMF</p> <p>Articles L. 511-9 and <i>seq.</i> of the CMF¹</p>

¹ Note that sources cited herein refer to the following: References to the French *Code monétaire et financier* are made to as “CMF,” references to the French *Code de la consommation* are made to “Consumer Code.”

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- Intragroup loans (i.e. loans between affiliated entities that are ultimately effectively controlled by one entity) and shareholder loans;
- Bonds issue: the issue and subscription of negotiable debt securities is an important exception to the French banking monopoly as bonds issued by French issuers are covered by this exception and may be subscribed or purchased by non-banks;
- Purchase non-matured debt receivables: since 3 January 2018 foreign financial investors, regardless of their jurisdiction are allowed to purchase non-matured debt receivables from French licensed credit institutions, financing companies, Undertakings for Collective Investment in Transferable Securities fund (UCITS) and alternative investment funds (AIF). Under the current banking monopoly rules, the purchase of non-matured debt receivables is considered a credit transaction and could not be undertaken in France by non-licensed/non-passported entities. The receivables must be professional in nature and so the new regime does not apply to consumer receivables. The foreign financial investors must also have a similar purpose or activity to licensed credit institutions, financing companies, UCITS fund and AIF.

There are no exceptions for foreign credit institutions that are not licensed either in France or elsewhere in Europe in countries which can benefit from the European “passport” under the European Directive 2000/12. Therefore, for example, a Japanese credit institution may not lend into France unless it has a subsidiary or branch licensed in France or a subsidiary in a country which can benefit from the European “passport”.

Under French law, the supervisory authority is the European Central Bank (“**ECB**”) since the entry into force of the single supervisory mechanism in November 2014. The single supervisory mechanism is based on integrated supervision of credit institutions in the Euro zone.

ECB is competent for the granting (or the withdrawal) of the banking licence to credit institutions within the Euro zone. The national supervisory authority, which is in France the *Autorité de Contrôle Prudentiel et de Résolution* (“**ACPR**”) remains competent, however, for the granting of licence to a branch of a credit institution established in non-EU country.

In any case, when filing an application for a banking licence, a foreign entity must first address its request to the ACPR which will then notify ECB and ECB will take its decision after recommendation from the ACPR.

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	<p>The single supervisory mechanism is governed by EU Regulation 1024/2013 and EU Regulation 468/2014, which sets out the respective competences of the ECB and the ACPR. Articles L. 511-9 and <i>seq</i> of the CMF and Article 14 of the EU Regulation No 1024/2013 set out the conditions that must be met in order to be granted an authorisation.</p> <p>To take its decision, the supervisory authority shall base itself on the following criteria:</p> <ul style="list-style-type: none"> • adequacy of the legal form to the planned activity; • the reputation, competence and experience of the persons responsible for leading or directing the requesting entity; • the administrative, technical and financial resources proposed for implementation in accordance with the activity programme of the requesting entity; • composition of the share capital of the requesting entity; • minimum capital requirement and the assets must exceed the liabilities by an amount at least equal to the minimum capital required. <p>The provision of consumer credit in France is a regulated activity under Articles L. 311-1 et <i>seq.</i> and L. 511-1 et <i>seq.</i> of the CMF subject to specific requirements provided for in the Consumer Code (<i>Code de la consommation</i>). Pursuant to Articles L. 311-1, 6° and L. 312-1 et <i>seq.</i> of the Consumer Code, the term “consumer credit” (<i>crédit à la consommation</i>) refers to any agreement whereby a lender² extends or commits to extend to a borrower, being a consumer³, a credit taking the form of an overdraft facility, a loan or any other similar deferred repayment arrangement, provided the facility’s amount ranges between EUR200 and EUR75,000 and whose repayment term exceeds 3 months⁴. Books I and II of the Consumer Code set out an extensive and detailed number of obligations that provide consumer protection, including the requirement to provide the consumer with certain minimum pre-contractual and contractual information, the prohibition of unfair terms, deceptive and</p>	<p>Article L. 511-5 and <i>seq.</i> of the CMF</p> <p>Articles L. 511-9 and <i>seq</i> of the CMF</p> <p>EU Regulation No 1024/2013</p> <p>Article L. 311-1 of the Consumer Code</p> <p>Article L. 511-1 et <i>seq.</i> of the CMF</p> <p>Book I and II of the Consumer Code</p> <p>Article L. 313-5-1 of the CMF</p> <p>Articles L. 314-6 et <i>seq.</i> of the Consumer Code</p>
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² The term “lender” is understood as “a natural or legal person who grants or promises to grant a consumer credit in the course of his trade, business or profession”. The same definition applies to real estate credits.

³ Traditionally, the concept of “consumer” refers to “a natural person acting for purposes which are outside its trade, business or profession”. Please note however that, in the specific context of a consumer credit, a “consumer” or a “borrower” means “a natural person who deals with a lender or a credit intermediary in the course of a performed or contemplated credit operation for purposes which are outside its trade, business or profession”. The same definition applies to real estate credits.

⁴ Articles L. 312-1 and *seq.* of the Consumer Code. The consumer credit regime however does not apply to a number of specific facilities, including notably real estate loans (*credit immobilier*).

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	<p>aggressive business-to-consumer commercial practices (such as forced bundling, refusal to provide services without due cause or additional payments without consent), the regulation of specific business-to-consumer commercial practices (such as comparative advertising or promotional offers), the obligation to assess the creditworthiness of the consumer, the right for the consumer to withdraw from a consumer credit agreement within fourteen (14) days from the date of acceptance of the credit offer, a specific regime for distance and off-premises contracts and additional information requirements to be provided to the consumer during the performance of the consumer credit.</p> <p>The usury restrictions which used to apply to loans made to French borrowers have been substantially narrowed so that no further interest rate limitations apply to loans made to French business entities, except in the case of overdraft facilities, pursuant to Article L. 313-5-1 of the CMF.</p> <p>In the context of consumer credit or a real estate credit to a French consumer, the lender must comply with the usury restrictions laid down in Articles L. 314-6 <i>et seq.</i> of the Consumer Code.</p> <p>A usurious credit is defined as any credit granted at an overall effective rate (TEG - <i>taux effectif global</i>⁵) which exceeds, at the time the credit is granted, by more than one third the effective average interest rate used during the previous quarter by credit institutions for transactions on the same kind and involving similar risks, as published by the French Central Bank (<i>Banque de France</i>)⁶.</p> <p>Infringement to the usury restrictions may primarily expose the lender to civil and criminal sanctions⁷.</p> <p>In particular, in case of a usurious credit, the borrower may refuse to pay interest above the rate deemed usurious and the lender may have to refund the interest paid to it in excess of the maximum permitted rate.</p>	
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⁵ "global effective rate" (TEG - *taux effectif global*) is equivalent to the APR under French law in credit agreements. It is an all-in rate supposed to reflect the actual cost of borrowing.

⁶ Article L. 341-6 of the Consumer Code.

⁷ Articles L. 341-48 and L. 341-50 of the Consumer Code.

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<p>Name of supervisory authorities and outline of the supervising power exercised by the relevant supervisory authorities and relevant provisions thereon</p>	<p>The ACPR is the prudential and conduct supervisor for credit institutions. The ACPR is also the supervisor in charge of supervising credit institutions with respect to anti-money laundering and countering financing of terrorism (“AML-CFT”). Article L. 612-1 of the CMF lists the purpose of the ACPR to maintain the stability of the financial system and protect clients, policy holders, adherent and beneficiaries of the persons under its supervision.</p> <p>Article L. 612-1 of the CMF further specifies that the ACPR is in charge of (i) exercising permanent monitoring of the financial situation and operating conditions of the firms it supervises and controlling their compliance with solvency requirements and (ii) monitoring compliance by firms it supervises with rules relating to EU-derived client protection laws and regulations, codes of conduct, good practices, etc.</p> <p>The body in charge of overall supervision at the ACPR is the <i>Collège de supervision</i> (supervisory board) by supervising firms under the control of the ACPR, and the <i>Secrétariat général</i> (general secretariat) is the body in charge of conducting permanent controls (i.e. <i>contrôles sur pièces</i>) or on-site controls (i.e. <i>contrôles sur place</i>).</p> <p>To conduct permanent controls, the <i>Secrétariat général</i> analyses information that firms are required to provide to the ACPR on a regular basis such as internal control reports or AML-CFT questionnaires. Also, the <i>Secrétariat général</i> analyses information collected during regular discussions and meetings with the management of firms. On-site controls consist in conducting thematic reviews (such as in relation to AML-CFT), through checks of the overall financial situation of the firm or of internal control arrangements.</p> <p>The ACPR <i>Commission des sanctions</i> (ACPR sanction committee) may impose stringent administrative enforcement measures and sanctions on the persons who are subject to their supervision in case of breach of the applicable regulations, including the following:</p> <p><u>ACPR's enforcement measures:</u></p> <ul style="list-style-type: none"> • warnings; • formal notices; • appointment of a provisional administrator; and/or 	<p>Articles L. 311-1 <i>et seq.</i>, L. 511-1 <i>et seq.</i>, L. 612-1 <i>et seq.</i>, L. 612-30 <i>et seq.</i> and L. 612-39 <i>et seq.</i> of the CMF</p>
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	<ul style="list-style-type: none"> • protective measures (e.g. temporary restrictions or prohibitions to carry out certain activities, temporary suspension, restriction or prohibition of the free disposal of some or all of its assets, suspension of its senior managers and/or other members of its management body, etc.). <p><u>ACPR's sanctions:</u></p> <ul style="list-style-type: none"> • warnings; • reprimands; • prohibitions from entering into certain transactions and any other restrictions on the conduct of business; • temporary suspension of its senior managers and/or other members of its management body; • compulsory resignation of its senior managers and/or other members of its management body; • partial or total withdrawal of its licence or authorisation; and/or • financial penalties/fines. <p>Decisions of the ACPR <i>Commission des sanctions</i> may be appealed before the French <i>Conseil d'Etat</i> (i.e. highest degree of appeal of French administrative courts).</p>	
Recent developments and arguments to revise the above regulation	Not to the best of our knowledge.	
1.2 Loans subject to the money lending business regulations		
Loans subject to the money lending business regulations	<p>The provisions of Article L. 511-5 of the CMF, which defines the banking monopoly, apply to both consumer/retail loans and corporate loans.</p> <p>However, it should be noted that a number of exceptions to the banking monopoly are not available in case of loans made to consumers. In particular, securitisation vehicles and alternative investment funds are allowed to grant loans directly to borrowers by exemption to the banking monopoly rules but only to the extent such borrowers are business entities (i.e.</p>	<p>Article L. 511-5 of the CMF Article L. 511-6 of the CMF Article L.214-175-1 of the CMF Article L. 214-190-1 of the CMF</p>

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	professionals). As a consequence, the only entities allowed to provide money lending to consumers are mainly credit institutions duly licensed in France.	
Historical, political and legal background of the above that consumer/retail loans and corporate loans are differently regulated	Consumer credit activities have developed in France as from the early 1950s. From the 1960s onwards, banks began to provide loans to their customers to finance their consumer purchases in the form of personal loans. In order to avoid abusive behaviours from the banks and to protect the consumers' rights (in particular, ensure that the consumer is informed of the risks when accepting a credit offer and provide for protective measures during the life of the credit), a specific consumer credit legislation has been progressively implemented under French law. Such legislation was originally created by French law No. 78-22 of 10 January 1978, which was amended several times and is now incorporated into articles L. 311-1 to L. 311-37 of the Consumer Code. Consumer credit was the subject of Community Directive 87/102/EEC of 22 December 1986 on the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (OJ L 42, 12 February 1987, p. 48), as amended by Directive 90/88/EEC of 22 February 1990 (OJ L 61, 10 March 1990, p. 14). The 1986 Community Directive no longer met the realities of consumer credit and its provisions had become obsolete in view of the major developments in the field of credit. Harmonization of national legislation was not achieved even as cross-border credit was developing. After many vicissitudes, the European Parliament adopted on 23 April 2008 a new directive repealing and replacing the 1986 directive. That directive was implemented under French law notably by French law No. 2010-737 of 1 st July 2010.	Law No. 78-22 of 10 January 1978 Articles L. 311-1 to L. 311-37 of the Consumer Code
Recent developments and arguments to revise the above regulation	Not to the best of our knowledge.	
Incidents detected by relevant authorities for an unlicensed lender to deliberately avoid and circumvent the above regulation	Not to the best of our knowledge.	

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	<p>credit agreement, and (iii) constitute a requirement to obtain the credit or to obtain it at the announced conditions.</p> <p>Under Article L. 313-4 of the CMF, the global effective rate must be set out by the lender in every document establishing a credit agreement, including credit facilities to professional borrowers.</p> <p>Such provisions also apply to consumer credits and real estate credits, except that, in respect of these types of credits, this concept has been renamed and specific rules apply: the global effective rate of consumer credits and real estate credits is now referred to as the global effective <u>annual</u> rate. Despite its name changing, the definition of the global effective annual rate remains substantially similar to the definition of the global effective rate. The only change relates to the notary fees, which are no longer to be included in the calculation of the global effective annual rate.</p> <p>As mentioned above, French law prohibits usurious credit in certain situations. Please see below a summary of usurious rates applicable (as published by the French Central Bank) for the fourth quarter of 2019 (i.e. as of 1 October 2019):</p> <ul style="list-style-type: none">• Consumer credit for an amount less or equal to 3,000€: 21.04%• Consumer credit for an amount above 3,000€ but less or equal to 6,000€: 12.12%• Consumer credit for an amount above 6,000€: 5.75%• Real estate credit to a French consumer with a term of less than 10 years: 2.67%• Real estate credit to a French consumer with a term of at least 10 years and less than 20 years: 2.67%• Real estate credit to a French consumer with a term of at least 20 years: 2.77%• Real estate credit to a French consumer with floating rate: 2.41%• Real estate bridge credit to a French consumer: 2.99%• Credit to professionals not having any industrial, commercial, artisanal or agricultural activity with a term exceeding 2 years and fixed rate: 2.08%• Credit to professionals not having any industrial, commercial, artisanal or agricultural activity with a term exceeding 2 years and floating rate: 1.76%	
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	<ul style="list-style-type: none"> • Credit to professionals not having any industrial, commercial, artisanal or agricultural activity for instalment purchases or sales: 3.52% • Other credit to professionals not having any industrial, commercial, artisanal or agricultural activity with a term not exceeding 2 years: 1.68% • Overdraft facilities for any professional: 13.81% 	
<p>Recent developments and arguments to revise the above regulation</p>	<p>Under French law, the obligation to state the global effective rate in the credit agreement exists for both corporate and retail loans.</p> <p>It has recently been discussed to delete the obligation to provide for the global effective rate in credit agreement entered into by business entities in certain circumstances where its calculation is considered a source of insecurity (i.e. where the calculation method of such rate is misleading, notably because interest rate is based on a floating reference rate, or in the when it is too complex in case of structured finance). Law n°2018-727 of 10 August 2018 enabled the government to amend the appropriate provisions of the Consumer Code and CMF in order to implement this, but the Ordinance No 2019-740 of 17 July 2019 finally did not modify the French legal regime in this respect.</p> <p>Going against market expectations, the Ordinance only reformed the civil sanctions in case of failure to state the global effective rate or error in the its calculation. Before the Ordinance, various sanctions of such a failure or error could apply, depending on the situation: substitution of the contractual interest rate by the statutory interest rate for mortgage loans or even forfeiture of all interests in the case of consumer loans. The Ordinance has harmonised the sanctions across the CMF and the Consumer Code: the sanction is, for all loans, forfeiture of interests in the proportion determined by the judge, taking into account factors such as the severity of the breach by the lender.</p>	
<p>Incidents detected by relevant authorities for an unlicensed lender to deliberately avoid and circumvent the above regulation</p>	<p>Not to the best of our knowledge.</p>	

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1.4 Fees, costs and charges must be included in the calculation of annual percentage rates (“APR”)		
<p>Scope of and out of scope of the fees, costs, charges and any other money received by a lender (“Fees, etc.”), including concrete examples such as an upfront administrative fee, ATM usage fees, and replacement card reissuance fees</p>	<p>Two preliminary remarks:</p> <ul style="list-style-type: none"> • Interests represent the remuneration of the lender for making the credit available (cost of financing, cost of risk and operating costs), while fees represent the provision of services distinct from the loan itself, even if they are related. • The APR equivalent under French law is the global effective rate, TAEG (<i>Taux annuel effectif global</i>) or, commonly, the TEG (<i>Taux effectif global</i>). As explained above, it aims at representing the real cost of credit for the borrower, thus encompasses all costs incurred by the borrower known by the lender at the time of the loan offer, of which the amounts can be determined, including interests and fees directly related to the granting of the loan, and has to be stated in writing by the lender in a physical or virtual document¹⁰. These requirements apply indifferently to retail and corporate loans. When it comes to upfront administrative fees, it is assumed that the global effective rate should include those types of fees¹¹. <p>Article L. 314-1 of the Consumer Code lists the elements included in the calculation of the global effective rate:</p> <ul style="list-style-type: none"> (i) interests; (ii) fees; (iii) commissions; (iv) remuneration <p>of any kind, direct or indirect, including those paid or payable to intermediaries involved in any way in the granting of the loan, even if such fees, commissions or remuneration correspond to actual disbursements.</p> <p>The fees that are included in the list of article L. 314-1 have raised a lot of discussion and abundant caselaw. The criteria to determine if a fee or a commission should be included in the global effective rate is whether they have conditioned the granting of the loan. Judges have adopted a wide conception of what is supposed to be encompassed in the global effective rate.</p>	<p>Article L. 314-1 and seq. of the Consumer Code</p>

¹⁰ Article L.314-5 of the Consumer Code

¹¹ Article R. 314-1 of the Consumer Code

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	<p>For instance, here are some elements that judges have considered should be included in the calculation of the global effective rate:</p> <ul style="list-style-type: none">(i) taxes and duties;¹²(ii) mandatory insurance and guarantee costs;¹³(iii) costs of creation of security interests, if applicable;¹⁴(iv) valuation of property costs, in the case of a mortgage loan;¹⁵(v) the cost of subscription of shares in the bank, in the case of a cooperative bank;¹⁶(vi) costs of opening a bank account, if applicable.¹⁷ <p><u>Exclusion from the calculation of the APR</u></p> <p>The following fees are excluded from the calculation of the global effective rate:</p> <ul style="list-style-type: none">(i) non-mandatory insurance fees (this includes insurances whose non-subscription is an event of default but not a condition to the granting of the loan);¹⁸(ii) prepayment penalties¹⁹ and, in general, any penalties under the credit agreement, including penalties for late payment or for payment rescheduling^{20;21}(iii) the costs of annual mandatory information of the guarantors;²²	Article R. 314-1 of the Consumer Code
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¹² Cass., Civ. 1^{ère}, 21 janvier 1992, n°90-18116

¹³ Article R. 314-1 of the Consumer Code ; Cass., Crim., 12 octobre 1976, n°76-90406

¹⁴ Article R. 314-1 of the Consumer Code

¹⁵ Article R. 314-1 of the Consumer Code

¹⁶ Cass., Civ. 1^{ère}, 9 déc. 2010, no 09-67.089

¹⁷ Article R. 314-1 of the Consumer Code

¹⁸ Cass., Civ. 1^{ère}, 6 février 2013, n° 12-15722

¹⁹ Cass., Civ. 1^{ère}, 27 septembre 2005, n° 02-13935

²⁰ Cass., Com., 22 février 1977, n°75-15054

²¹ Please note that the penalty for late payment may not exceed 8% of the outstanding amount of principal in the situation where the lender requests immediate repayment in the situation where the lender requests immediate repayment of the principal outstanding (Articles L. 312-39 and D. 312-16 of the Consumer Code) or 8% of the unpaid matured maturities in the situation where the lender does not request such immediate payment (Articles L. 312-39, D. 312-17 of the Consumer Code). The penalty for payment rescheduling may not exceed 4% of the postponed maturities (Articles L. 312-39, D. 312-17 of the Consumer Code).

²² Cass., 1^{ère} civ., 15 octobre 2014, n° 13-19241

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	<p>(iv) the “account keeping” fee, including, management fees and fees for cashing, payments, credits and debits, transfer processing, ATM withdrawals, card reissuance fees;²³</p> <p>(v) any intervention fees, i.e. fees charged by the bank following an irregular operation on the account (irregular payment order, incorrect bank details, insufficiency of funds, etc);²⁴²⁵</p> <p>(vi) any costs resulting from an escalator or indexation clause.²⁶</p>	
Recent developments and arguments to revise the above regulation	Not to the best of our knowledge.	
Incidents detected by relevant authorities for an unlicensed lender to deliberately avoid and circumvent the above regulation	Not to the best of our knowledge.	
1.5 Total loan amount restriction (volume restriction)		
Restrictions on the total loan amount per individual/entity borrower to which licensed money lenders may offer	<p>Under French law, there are no restrictions on the total loan amount per individual/entity borrower.</p> <p>However, it should be noted that credit institutions must carry out a creditworthiness assessment of the borrower to assess whether the loan is affordable.</p> <p>In addition, where the borrower (or the guarantor, if any) is not considered as “informed” (<i>averti</i>) and the credit is deemed excessive (i.e. is not affordable for the borrower, taking into account its financial resources and its indebtedness at the time the credit agreement is concluded), the</p>	<p>Article L. 312-16 of the Consumer Code</p> <p>Cass. 1re civ., 12 juill. 2005, n°03-10921</p> <p>Cass. 1re civ., 28 nov. 2012, n° 11-26477</p> <p>Article L751-1 of the Consumer Code</p>

²³ Cass., Com., 14 décembre 2004, n°02-19532

²⁴ Cass., 1ère civ., 22 mars 2012, n° 11-10199

²⁵ Definition of the CCSF (*Comité consultatif du secteur financier*)

²⁶ Cass., Civ. 1ère, 21 janvier 1992, no 90-18120

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	<p>French courts have established an obligation for the lender to notify the relevant borrower of the risk of non-repayment in view of its financial capacity and the risk of debt²⁷.</p> <p>A borrower is considered as “informed” (<i>averti</i>) if it has the necessary skills to assess the content, scope and risks associated with the credit²⁸. It is not necessarily a consumer.</p> <p>If the borrower is considered “informed”, the bank can only be held liable in exceptional cases, if the borrower demonstrates that it had information on its income, assets and ability to repay information that the borrower did not know.</p> <p>Finally, if the borrower is a consumer, the lender must consult the national file containing information on characterized payment incidents held by the French Central Bank prior to entering into the credit agreement in order to verify that the borrower is not mentioned in that file.</p>	
Recent developments to revise the above regulation	Not to the best of our knowledge.	
Incidents detected by relevant authorities for an unlicensed lender to deliberately avoid and circumvent the above regulation	Not to the best of our knowledge.	
1.6 Special provisions for small-amount and short-term loans		
Other than those discussed above, other special provisions governing small-amount and short-term loans	<p>There are no such special provisions, which allow lenders to impose exceptional interest rate or special charges, for small-amount and short-term loans in France.</p> <p>However, there are specific provisions applying to consumer loans, as set out above – of which one criterion is to be more than EUR200 and less than EUR75,000. Also, loans under 3 months are excluded from the protective scope of consumer loans (as described in paragraph 1.1).</p>	Articles L. 312-1 to L. 312-94 of the Consumer Code

²⁷ Cass. 1^{re} civ., 12 juill. 2005, n°03-10921

²⁸ Cass. 1^{re} civ., 28 nov. 2012, n° 11-26477.

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Recent developments and arguments to revise the above regulation	Not to the best of our knowledge.	
Incidents detected by relevant authorities for an unlicensed lender to deliberately avoid and circumvent the above regulation	Not to the best of our knowledge.	

2. Transaction Lending and any other online lending

Current situation on whether or not there have been requests to relax or tighten the regulations from relevant stakeholders, and the responses to the above requests by relevant government agencies and Congress/Parliament	<p>The Paris Financial Markets Legal Steering Group (of which the two French financial regulators, the ACPR and the <i>Autorité des marchés financiers</i> (the “AMF”), are members) (the “Steering Group”) has issued a report in March 2016²⁹ on French banking monopoly to analyse whether French banking monopoly rules could impair the competitiveness and attractiveness of Paris marketplace and, if so, to determine which measures could be implemented to address this situation. In its report, the Steering Group has notably been calling for evolution of lending monopoly rules notably regarding the acquisition of unmatured professional credit receivables, the conditions for conducting intra-group treasury transactions, the possibility to grant professional credits, etc.</p> <p>The ACPR and the AMF have implemented in July 2016 the “Forum FinTech” which is a consultative body composed of representatives of French FinTech market players, the ACPR and the AMF, to exchange with FinTech professionals in order to better understanding the regulatory and supervisory issues relating to financial innovation.</p>	
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²⁹ *Haut Comité Juridique de la Place financière de Paris, Rapport sur le monopole bancaire, 14 mars 2016.*

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	<p>We note that the two French financial regulators (AMF and ACPR) are members of the Steering Group and the Forum FinTech and have/are participated/participating in their work. The risk that they take a position that would contradict the conclusions of the Steering Group and the Forum FinTech is therefore low. Having said that, please note the traditional position of French regulators is that they do not have any authority to grant a waiver/dispensation from any statutory or regulatory provision. Therefore, so long as the relevant French law provisions are in force, the ACPR and the AMF would expect market players to comply with such provisions.</p>	
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3. Multiple-debt problem (i.e. too much borrowing problem) as a result of high-interest lending

<p>Recent movement and discussions made within the government and Congress/Parliament</p>	<p>We are not aware of any recent developments/discussions with regard to multiple-debt problem.</p> <p>Under French law, there is no mandatory provisions relating to multiple-debt issue. However, French law No 89-1010 of 31 December 1989 on the prevention and resolution of difficulties related to the over-indebtedness of individuals and families introduced the first organized method for resolving the over-indebtedness of individuals. The over-indebtedness situation is characterised by the obvious impossibility for an individual of meeting all its non-professional debts when falling due. In that case, the individual can contact the French commission for over-indebtedness of individuals.</p> <p>As from admissibility by the commission and for the entire duration of the investigation and within the limit of 2 years, the individual must no longer:</p> <ul style="list-style-type: none"> • Repay its credits or overdrafts; • Pay any other kind of debts (arrears of rent, taxes, unpaid invoices...). <p>All ongoing seizures are automatically suspended and prohibited during this period, except for maintenance and criminal debts.</p> <p>If the individual's financial situation allows it, a debt repayment plan is established and may include rescheduling, postponements, and/or partial cancellation of the debts. Otherwise, the commission can direct the file towards a personal recovery, i.e. a total cancellation of the debts.</p>	<p>Article L. 751-1 and <i>seq.</i> of the Consumer Code</p> <p>Article L. 711-1 and <i>seq.</i> of the Consumer Code</p>
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4. Special treatments given to small and medium enterprises lending (“SME Lending”)

<p>Favourable treatments for the SME Lending including loans provided by governmental financial institutions, subsidies, favourable tax treatment</p>	<p>We are not aware of any favourable treatment for SME lending. There are, however, several tax incentives to finance and invest in SMEs. In addition, a public investment bank, Bpifrance, co-owned by the State and a public financial institution (<i>Caisse des Dépôts et des Consignations</i>) mainly focuses on lending to SMEs.</p>	
<p>Recent movement and discussions made within the government and Congress/Parliament</p>	<p>We are not aware of any recent movement within the government and/or the Parliament to strengthen SME support measures through public financial support. However, the government has encouraged mechanisms, such as crowdlending, equity crowdfunding, peer-to-peer lending, to emerge as an alternative way for SMEs to fund themselves. For instance, the French law maker has adapted the CMF and the AMF general regulation in order to create a regulatory framework for crowdfunding and crowdlending. It has, for instance:</p> <ul style="list-style-type: none"> (i) created the regulated status of counsel in crowdfunding and of intermediary in crowdlending for online platforms, with diverse related obligations: <ul style="list-style-type: none"> a. obligation of information of the characteristics of the loan or of the project; b. obligation to notify of the risks of loss of capital; (ii) created an exception to the banking monopoly for natural persons who do not act in a professional or commercial capacity to grant loans within the scope of crowdlending; (iii) given to simplified limited liability companies (<i>sociétés par actions simplifiées</i>) the possibility to raise equity through equity crowdfunding. <p>Please refer to the Minister of Economy's website for more information: https://www.economie.gouv.fr/cedef/financement-participatif.</p>	<p>Ordinance n°2014-559 of 30 May 2014 Decree n°2014-1053 of 16 September 2014 Decree n°2016-1453 of 28 October 2016</p>