

# Peer Review of France

Review report

11 December 2024



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## Foreword

Financial Stability Board (FSB) member jurisdictions have committed, under the FSB Charter and in the *FSB Framework for Strengthening Adherence to International Standards*,<sup>1</sup> to undergo periodic peer reviews. To fulfil this responsibility, the FSB has established a regular programme of country and thematic peer reviews of its member jurisdictions.

Country reviews focus on the implementation and effectiveness of regulatory, supervisory or other financial sector policies in a specific FSB jurisdiction. They examine the steps taken or planned by national/regional authorities to address IMF-World Bank Financial Sector Assessment Program (FSAP) and Reports on the Observance of Standards and Codes recommendations on financial regulation and supervision as well as on institutional and market infrastructure that are deemed most important and relevant to the FSB's core mandate of promoting financial stability. Country reviews can also focus on regulatory, supervisory or other financial sector policy issues not covered in the FSAP that are timely and topical for the jurisdiction and for the broader FSB membership. Unlike the FSAP, a peer review does not comprehensively analyse a jurisdiction's financial system structure or policies, or its compliance with international financial standards.

FSB jurisdictions have committed to undergo an FSAP assessment every five years; peer reviews taking place typically two to three years following an FSAP will complement that cycle. As part of this commitment, France volunteered to undergo a peer review in 2023-2024.

This report describes the findings and conclusions of the France peer review, including the key elements of the discussion in the FSB's Standing Committee on Standards Implementation (SCSI) in October 2024. It is the second FSB peer review of France and is based on the objectives and guidelines for the conduct of peer reviews set forth in the *Handbook for FSB Peer Reviews*.<sup>2</sup>

The analysis and conclusions of this peer review are based on the responses to a questionnaire by financial authorities in France and reflect information on the progress of relevant reforms as of October 2024. The review has also benefited from dialogue with the French authorities as well as discussion in the FSB SCSI.

The draft report for discussion was prepared by a team chaired by Emily Shepperd (Financial Conduct Authority, United Kingdom) and comprising Brijesh Baisakhiyar (Reserve Bank of India), Sabina Marchetti (Banca d'Italia), Mohsen Alzahrani (Saudi Central Bank) and Koh Kian Sin (Monetary Authority of Singapore). Michael Januska and Jun Wang (FSB Secretariat) provided support to the team and contributed to the preparation of the report.

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<sup>1</sup> FSB (2010), *FSB Framework for Strengthening Adherence to International Standards*, January.

<sup>2</sup> FSB (2017), *Handbook for FSB Peer Reviews*, April.

## Abbreviations

|                     |   |
|---------------------|---|
| ACPR                | Autorité de contrôle prudentiel et de résolution  |
| AMF                 | Autorité des marchés financiers   |
| AML/CFT             | Anti-money laundering and counter-terrorist financing   |
| ARTs                | Asset-referenced tokens (MiCAR)   |
| BCBS                | Basel Committee for Banking Supervision   |
| BdF                 | Banque de France  |
| CA recommendations  | High-level recommendations for the regulation, supervision and oversight of crypto-asset activities and markets (FSB) |
| CASP                | Crypto-asset service provider (EU)  |
| CI                  | Credit institution  |
| CMF                 | Monetary and Financial Code (FR)  |
| CPMI                | Committee on Payments and Market Infrastructures  |
| DASP                | Digital Asset Service Provider (FR)   |
| DeFi                | Decentralised finance   |
| DLT                 | Distributed ledger technology   |
| DORA                | Digital Operational Resilience Act (EU)   |
| DSF                 | Financial Stability Department (Banque de France)   |
| EBA                 | European Banking Authority (EU)   |
| EC                  | European Commission   |
| ECB                 | European Central Bank   |
| EMI                 | Electronic money institution  |
| EMT                 | Electronic money token (MiCAR)  |
| ESMA                | European Securities and Markets Authority   |
| EU                  | European Union  |
| FATF                | Financial Action Task Force   |
| FSAP                | Financial Sector Assessment Program   |
| FSB                 | Financial Stability Board   |
| GDP                 | Gross Domestic Product  |
| GSC                 | Global stablecoin   |
| GSC recommendations | High-level recommendations for the regulation, supervision and oversight of global stablecoin arrangements (FSB)      |
| ICO                 | Initial Coin Offering   |
| IMF                 | International Monetary Fund   |
| IOSCO               | International Organization of Securities Commissions  |
| MCI                 | Multifunction crypto-asset intermediaries   |
| MiCAR               | Markets in Crypto-Assets Regulation (EU)  |
| MiFID II            | Markets in Financial Instruments Directive II (EU)  |
| MoF                 | Ministry of Finance   |
| MoU                 | Memorandum of Understanding   |
| MMoU                | Multilateral MoU  |
| NCA                 | National competent authority (MiCAR)  |
| OECD                | Organisation for Economic Co-operation and Development  |
| PACTE               | Action Plan for Business Growth and Transformation (FR)   |
| PFMI                | Principles for Financial Market Infrastructures (CPMI)  |
| SCSI                | Standing Committee on Standards Implementation (FSB)  |

|      |                                       |
|------|---------------------------------------|
| SSB  | Standard-setting body                 |
| VAs  | Virtual assets (FATF)                 |
| VASP | Virtual asset service provider (FATF) |

# Executive summary

## Background and objectives

The main purpose of this peer review is to examine France's progress in the regulation and supervision of crypto-asset activities, including stablecoins. The review focuses on the steps taken by the authorities to implement reforms in this area, taking into account the recent adoption of the FSB's high-level recommendations for the regulation, supervision, and oversight of crypto-asset activities and markets and global stablecoin arrangements, and the ongoing transition of the French regime on crypto-asset service providers to the EU Markets in Crypto-Asset Regulation (MiCAR). The review focuses on the assessment of regulatory, supervisory and oversight issues and not on other risks such as consumer and investor protection, market integrity or anti-money laundering and counter-terrorist financing (AML/CFT).

## Main findings

In France, the main use cases of crypto-assets to date are related to investments or facilitation of crypto-asset trading transactions, with stablecoins typically used as a medium of exchange for crypto-to-crypto transactions. The use of stablecoins or other crypto-assets for payments remains limited, although crypto-asset ownership by individuals in France has increased in recent years. The French crypto-asset sector is currently structured around 107 companies registered as a Digital Asset Service Provider (DASP), with one company being granted an optional DASP license. Several French entities have issued stablecoins under the 2019 Action Plan for Business Growth and Transformation (PACTE Law). The market is very concentrated, with two DASPs accounting for 91% of customers and 80% of transactions in domestic digital asset in 2023. The French authorities note that the direct interconnectedness between traditional finance and the crypto-asset market is limited, although several financial institutions have begun to offer investment products related to crypto-assets.

The French authorities have made significant progress in monitoring, regulating and supervising crypto-asset markets in recent years. They have established a regular monitoring mechanism for crypto-asset market developments and risk trends as part of the financial stability monitoring framework of the Banque de France, with the information subsequently shared with the Autorité des marchés financiers (AMF), the Autorité de contrôle prudentiel et de résolution (ACPR), and the Ministry of Finance. The authorities successfully brought a large part of the crypto-asset market into the regulatory perimeter by implementing the 2019 Action Plan for Business Growth and Transformation (PACTE Law) to complement existing sectoral regulations. The PACTE Law introduced a registration and licensing regime for DASPs. Even though the PACTE Law largely focused on mitigating AML/CFT risks, it provided a supervisory lever for the authorities to monitor and intervene to mitigate other risks if needed.

The PACTE Law enabled the French authorities to build up their regulatory expertise in crypto-assets. It allowed the authorities to understand the business models that DASPs operate and the risks of crypto-assets. The introduction of the enhanced registration framework reflects the authorities' understanding of the evolving risks posed by crypto-assets, as they drew important lessons from the crypto-asset market turmoil in 2022. The regulatory experience has enhanced the authorities' readiness to implement MiCAR, which entered into force on 29 June 2023.



The PACTE Law has also fostered regulatory literacy and awareness among the crypto-asset industry in France, which consists of many small start-up firms with limited knowledge of financial regulation. The authorities conduct bilateral regulatory engagements and industry-wide dialogues. The regulatory clarity and the willingness of the authorities to engage the industry attracted many DASPs and other ancillary service providers to establish operations in France.

The AMF adopts a blacklisting approach for identifying entities illegally providing crypto-asset services, which has been a useful enforcement tool that also provides public transparency. Meanwhile, the publication of a whitelist of registered and licensed DASPs also encourages crypto-asset service providers to actively engage with the regulators. As an active signatory of the IOSCO Multilateral Memorandum of Understanding (MMoU), the AMF leverages past experiences to facilitate cooperation and information sharing with other IOSCO signatories when dealing with cross-border activities.

Notwithstanding these achievements, as is the case in other jurisdictions, further steps can be taken to strengthen the regulatory framework for crypto-assets and stablecoins. These include: facilitating a smooth transition to the MiCAR regime; strengthening enforcement efforts; and promoting cross-border cooperation and information sharing.

### *Enhancements expected from MiCAR*

There are several gaps in the current French regulatory framework for crypto-asset activities:

- The monitoring and assessment of financial stability risks in the French crypto-asset market lacks reliable data due to the absence of relevant regulatory requirements on data collection and reporting frameworks. This impedes the authorities' ability to identify, assess and mitigate risks that may arise beyond financial integrity (i.e. AML/CFT reporting requirements).
- The lack of specific regulations for stablecoins presents a gap in the French framework, as stablecoin-specific risks may not be adequately addressed.
- The PACTE Law appears to lack proportionality in how certain regulatory requirements are applied, as most requirements apply to DASPs regardless of their risk, size, complexity and systemic importance (see section 4.1.3).

The peer review includes no recommendation on these issues as they are expected to be addressed when MiCAR is implemented, given that it sets out regulatory requirements related to data collection and reporting of stablecoins and grants supervisory mandates to the French and European competent authorities.

### *Facilitating a smooth transition to MiCAR*

MiCAR's regulatory requirements will be much more comprehensive and detailed than those of the PACTE Law, including the enhanced registration framework. However, the applications for registration under the PACTE Law demonstrated that the crypto-asset sector often lacked familiarity with financial regulations, had inadequate resources, and often did not have key requirements in place. The AMF, the ACPR, and other relevant authorities need to devote more

resources in reviewing the applications and supporting DASPs in the transition. This may become more acute and require more resources of the authorities after MiCAR is implemented.

The authorities should consider ways to enhance the transparency of the application process, including triaging the applications, setting clear and reasonable timelines on the key milestones of the application process, and if possible, offering a preliminary assessment on the likely outcome of the application. The authorities should also strengthen efforts to educate the general public on the new regulatory regime under MiCAR.

The authorities should also scale up their resources for the authorisation, regulation and supervision of crypto-asset service providers under MiCAR. When MiCAR enters into force, the resource demands for these activities will significantly scale up because of its wider and more complex scope of regulations than under the PACTE Law.

### *Strengthening enforcement efforts*

While the authorities have relied on blacklisting as the main enforcement tool to deter unregistered or unlicensed (i.e. unauthorised) entities, many entities continue to target the French public without authorisation, which may suggest some limitations of blacklisting as an effective enforcement tool.

The authorities should review and consider increasing the pace of enforcement actions and assess the need for widening their range of enforcement tools. Currently, when there is a reported case of an unregistered DASP, authorities may take up to four months to blacklist an unauthorised entity, due also to French legal requirements such as prior intervention of a judge to block a website. For enforcement to be more effective, the authorities should seek to reduce the time taken to blacklist an unauthorised entity, proceed with geo-blocking of certain websites or even consider applying punitive sanctions against such actors.

### *Promoting cross-border cooperation and information sharing*

Crypto-assets are borderless in nature, which allow issuers and service providers to operate activities globally. Activities that originate from one jurisdiction may easily be accessible to customers in other jurisdictions without the need to establish a physical office. Difficulties in cross-border enforcement - with respect to unregulated service providers operating in overseas jurisdictions which may be at different stages of implementing global regulatory standards - continue to reduce the effectiveness of the regulation and supervision of crypto-asset service providers, including in France. This calls for stronger needs for cross-border cooperation and information sharing to ensure regulatory, supervisory, and enforcement actions are effective. The AMF pursues cross-border cooperation by using the IOSCO MMoU and other arrangements. However, given the inconsistency and lack of progress of certain jurisdictions in regulating crypto-asset activities, as well as the dependence on the willingness of those jurisdictions to cooperate and share the information, this will remain a key challenge going forward.

## Recommendations

In response to the aforementioned findings and issues, the peer review has identified the following recommendations to the French authorities:

1. The authorities should promote a smooth transition to MiCAR by triaging applications by crypto-asset service providers, ensuring adequate resources to process them (particularly at the AMF) and to provide capacity building, improving transparency in the application process and ensuring legal/regulatory clarity on requirements.
2. The AMF should review and consider improving the pace of enforcement activities, such as blacklisting and closing websites, and assess the need for other enforcement tools.
3. The authorities should continue to promote and strengthen cross-border cooperation and information sharing in regulating and supervising crypto-asset activities originated offshore and involving French firms/residents.

# 1. Introduction

France's first FSB peer review, published in 2017, focused on the macroprudential policy framework and public disclosure of financial sector data.<sup>3</sup> The review found that significant progress had been made on both topics in recent years prior to the review, reflecting initiatives at both EU and national level, although there was additional work to be done. On the macroprudential framework, this involved continuing to expand the scope of macroprudential policy in the insurance and asset management sectors; enhancing systemic risk assessments and disclosing the data, methodologies and assumptions underpinning them; and strengthening public communication on financial stability. On disclosures, this involved adopting European Banking Authority (EBA) guidance to enhance the transparency of capital treatment in complex banking groups; establishing a programme to review and follow up on reports to be submitted by insurers under the EU's Solvency II Directive for insurance firms; and considering the publication on a regular basis of comparable insurance company information.

This peer review examines France's regulation and supervision of crypto-asset activities, including stablecoins. Crypto-assets have been an important policy priority for the FSB and standard-setting bodies (SSBs) in recent years (see Box 1). The review focuses on the steps taken by the authorities to implement reforms in this area, taking into account the recent adoption of the FSB's high-level recommendations for the regulation, supervision and oversight of crypto-asset markets and activities (CA recommendations) and high-level recommendations on the regulation, supervision and oversight of so-called "global stablecoin" (GSC) arrangements (GSC recommendations). The CA recommendations focus on addressing risks to financial stability, and do not comprehensively cover all specific risk categories related to crypto-asset activities; accordingly the focus of the report is not on those other risks.<sup>4</sup>

## Box 1: Recommendations of the FSB and SSBs on crypto-assets

**The FSB** issued in 2020 a set of 10 high-level recommendations on the regulation, supervision and oversight of so-called GSC arrangements. In consultation with SSBs and international organisations, it finalised in 2023 a global regulatory framework for crypto-asset activities based on the principle of 'same activity, same risk, same regulation.' This framework consists of high-level recommendations for the regulation, supervision and oversight of crypto-asset markets and activities (CA recommendations) and revised high-level recommendations for the regulation, supervision and oversight of GSCs (GSC recommendations).<sup>5</sup> In September 2023, the **FSB and IMF** delivered a Synthesis Paper to the G20 bringing together policy findings on macroeconomic and monetary as well as supervisory and regulatory issues for crypto-assets.<sup>6</sup> It also includes a policy implementation roadmap on initiatives by the IMF, FSB, and relevant SSBs.<sup>7</sup>

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<sup>3</sup> FSB (2017), *Peer review of France*, July.

<sup>4</sup> Other risks include AML/CFT; data privacy; cyber security; consumer and investor protection; market integrity; competition policy; taxation; monetary policy, monetary sovereignty and other macroeconomic concerns.

<sup>5</sup> FSB (2023), *FSB Global Regulatory Framework for Crypto-asset Activities*, July.

<sup>6</sup> IMF-FSB (2023), *Synthesis Paper: Policies for Crypto-Assets*, September.

<sup>7</sup> A status report on progress in taking forward the roadmap was published in October 2024. See FSB-IMF (2024), *G20 Crypto-asset Policy Implementation Roadmap: Status Report*, October.

**IOSCO** published in 2023 Policy Recommendations for Crypto and Digital Asset Markets and Policy Recommendations for decentralised finance (DeFi).<sup>8</sup> The recommendations contribute to a coordinated global regulatory response to the significant investor protection and market integrity risks posed by centralised crypto-asset intermediaries and concerns arising from DeFi. The recommendations provide targeted requirements to address key issues in crypto-asset markets such as conflicts of interest. IOSCO has an Implementation Roadmap to monitor and promote timely implementation of the recommendations.

**The CPMI and BIS** prepared a report to the G20 that examined the meaning of tokenisation in the context of money and other assets.<sup>9</sup>

In 2022, the Bank for International Settlements' **Committee on Payments and Market Infrastructures (CPMI) and IOSCO** published guidance on the application of the *Principles for financial market infrastructures* (PFMI) to stablecoin arrangements.<sup>10</sup> As follow-up, CPMI-IOSCO is analysing risks associated with multicurrency and asset-linked stablecoin arrangements and, if needed, will develop relevant policy considerations.

The **Basel Committee on Banking Supervision (BCBS)** published in late 2022 a global prudential standard for banks' exposures to crypto-assets.<sup>11</sup> In July 2024, the BCBS finalised the disclosure standard for banks' crypto-asset exposures and agreed to make targeted amendments to its crypto-asset standard.<sup>12</sup>

In February 2023, **the Financial Action Task Force (FATF)**, which sets international standards for anti-money laundering and counter-terrorist financing (AML/CFT), adopted a Roadmap to accelerate implementation of the FATF Standards for virtual assets (VAs) and virtual asset service providers (VASPs),<sup>13</sup> in light of the slow and uneven progress globally since the standards were introduced in 2019. The FATF published in March 2024 a table which sets out steps taken towards implementing the Standards by all FATF members and jurisdictions with materially important VASP activities.<sup>14</sup>

France's implementation of the post-Global Financial Crisis regulatory reforms is advanced across most core reform areas; however, certain Basel III elements and non-bank financial intermediation reforms are still pending. Annex 1 gives an overview of France's implementation status of G20 financial reforms, including the steps taken and actions planned in core reform areas (not covered in this peer review) where implementation is not yet complete.

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<sup>8</sup> IOSCO (2023), *Policy Recommendations for Crypto and Digital Asset Markets – Final Report*, November; and IOSCO (2023), *Final Report with Policy Recommendations for Decentralized Finance (DeFi)*, December.

<sup>9</sup> BIS-CPMI (2024), *Tokenisation in the context of money and other assets: concepts and implications for central banks*, October.

<sup>10</sup> The guidance reconfirms that if a stablecoin arrangement performs a transfer function and is determined by authorities to be systemically important, the stablecoin arrangement as a whole would be expected to observe all relevant principles of the PFMI. See CPMI-IOSCO (2022), *Application of the Principles for Financial Market Infrastructures to stablecoin arrangements*, July.

<sup>11</sup> BCBS (2022), *Prudential treatment of cryptoasset exposures*, December.

<sup>12</sup> See <https://www.bis.org/press/p240703.htm>.

<sup>13</sup> FATF (2021), *Updated Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers*, October.

<sup>14</sup> FATF (2024) *Status of implementation of Recommendation 15 by FATF Members and Jurisdictions with Materially Important VASP Activity*, March.

## 2. Market structure and recent developments

In France, the main use cases of crypto-assets to date are related to investments or facilitation of crypto-asset trading transactions, with stablecoins typically used as a medium of exchange for crypto-to-crypto transactions. While there has been an acceleration in the ownership of stablecoins, it has not matched the broader adoption of other crypto-assets. Stablecoins make it possible to keep funds invested in the crypto environment after selling crypto-assets, without off-ramping back to fiat currency, and thereby avoiding the associated fees and taxes. The use of stablecoins or other crypto-assets for payments remains limited, although there are several crypto-asset payment services.

The level of crypto-assets ownership by individuals in France has increased in recent years. The European Central Bank (ECB) estimated that in 2021, 6% of the French population owned crypto-assets; the Organisation for Economic Co-operation and Development (OECD) estimated this to be 9% in 2023, and Adan,<sup>15</sup> KPMG and Ipsos puts the figure at 12% in 2024 (versus 9.4% in 2023).<sup>16</sup> In comparison, the latter study suggested that individual ownership was 17% in the Netherlands, 16% in the United Kingdom, 12% in Germany and 11% in Italy. Survey data on France suggests investments in crypto-assets are mainly made by young men with a high level of education. Investments are concentrated on Bitcoin and Ether and are reportedly driven by the search for returns. The OECD study commissioned by the Autorité des marchés financiers (AMF), with the support of the European Commission (EC), showed that 25% of traditional investors and 50% of “new investors” (investors who began to invest after the start of the COVID-19 pandemic) have invested in crypto-assets.

With the implementation of the PACTE law in 2019, France established a regulatory regime for service providers within the crypto-asset sector. Provisions include registration as a Digital Asset Service Provider (DASP) for entities providing specific services (see Section 3.2.1), or an optional license for those providing other types of services. The French crypto-asset sector is currently structured around 107 companies registered as a DASP and one company with optional DASP license (see Graph 1). Registrations increased steadily over 2020-23. Several multifunction crypto-asset intermediaries (MCIs), such as Binance, Coinbase, Crypto.com and OKX have obtained DASP registrations. In addition, there may be some companies operating without proper registration, although the French authorities have acknowledged that it is difficult to estimate how many such entities are operating.<sup>17</sup>

Most DASPs offer several services (see Graph 1). The majority (60%) of registered DASPs provide three services, typically: digital assets custody; the purchase or sale of digital assets for legal tender; and trading of digital assets against other digital assets.<sup>18</sup> Only 15% of DASPs registered to provide a single service, and 7% of DASPs are registered for four services.

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<sup>15</sup> Adan is a Paris-based industry association. See <https://www.adan.eu/>.

<sup>16</sup> See ECB (2022), *Decrypting financial stability risks in crypto-asset markets*, May; OECD (2023), *New retail investors in France: Attitudes, Knowledge and Behaviours*, October and Adan, Ipsos and KPMG (2024), *Web 3 and crypto in France and across Europe: Continued adoption and growth of the sector*, March.

<sup>17</sup> As explained in Section 3.2.3, the AMF has a blacklist of unauthorised entities, the majority of whom are not proper companies but only fraudulent entities.

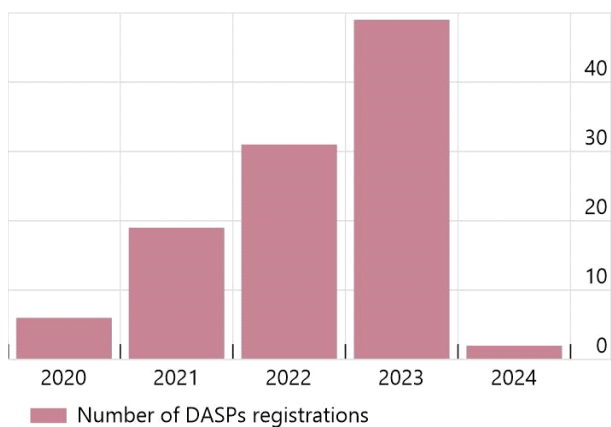
<sup>18</sup> An entity that wishes to provide any of these three services or operate a trading platform for digital assets must register first.

## DASPs registrations

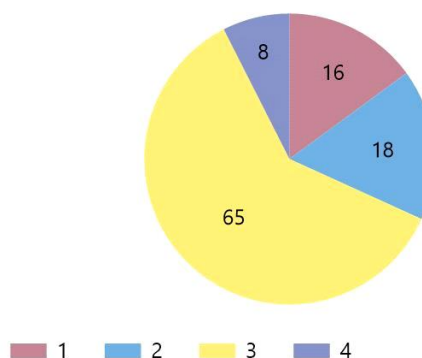
Number of DASPs

Graph 1

A. DASPs registrations over time



B. Distribution of the number of services for which DASPs have been registered



Source: AMF.

The market is very concentrated around a few DASPs. The French authorities note that 707,813 customers carried out one or more transactions in 2023 with French DASPs.<sup>19</sup> However in 2023:

- one DASP accounted for almost 83% of active customers and two DASPs accounted for 91% of customers;
- 97% of the digital assets are held into custody by six providers;
- purchases/sales of digital assets against legal tender were concentrated among three DASPs who represent more than 87% of the volume of these operations;
- 80% of transactions in domestic digital assets are carried out by two DASPs; and
- one DASP operates a platform on which more than 98% of digital assets exchange transactions were carried out.

Around 70% to 80% of secondary market transactions occur between crypto-assets and other crypto-assets or stablecoins, i.e. they do not involve any fiat currency. The distribution of fiat-to-crypto transactions shows a clear dominance of the US dollar and the South Korean won, which together account for around 80% of fiat volume.

However, there are no conclusive estimates on activities occurring outside centralised exchanges, such as those on DeFi platforms, peer-to-peer transactions, or decentralised exchanges, which makes it difficult to estimate the complete scope and scale of crypto-asset activities. The French authorities also acknowledge that for crypto-related data they rely entirely on private sources, and these estimates suffer from a lack of reliable data.

Several financial institutions have begun to offer investment products related to crypto-assets. There are retail banks which aim to facilitate the interaction between the banking sector and

<sup>19</sup> Approximately 3% of these transactions were from non-French resident customers.



DASPs, investment services providers that provide crypto-asset-related services to professionals and a public financial institution that provides custody services to other public institutions. There are also asset managers who offer their clients exposure to crypto-assets. The French authorities note that the direct interconnectedness between traditional finance and the crypto-asset market is limited, and that most traditional financial institutions have not applied for an optional license under the PACTE regime. However, those institutions might be inclined to apply for the license under the EU Markets in Crypto-Assets Regulation (MiCAR) regime in future, which means the interlinkage may increase and needs close monitoring.

### 3. Steps taken and actions planned

#### 3.1. Monitoring crypto-asset risks

The French authorities conduct regular monitoring of crypto-asset market developments and risks. The monitoring approaches consider both quantitative and qualitative methods and are undertaken by different authorities at different frequencies.

- The Banque de France (BdF) monitors the crypto-asset market (including stablecoins) monthly to track trends and correlations, and to identify financial stability risks. In addition, assessments of financial stability risks of crypto-assets are conducted semi-annually, with the main findings included in the Financial Stability Report. Assessments in this report traditionally focus on global rather than domestic financial stability risks from crypto-assets, given the modest size of the French crypto-asset market.<sup>20</sup> The identification of contagion channels is carried out using two tools: a crypto-asset market news watch and a quantitative analysis of the crypto-asset market.<sup>21</sup> Particular attention is paid to partnerships between crypto-asset actors and regulated traditional financial entities, the composition and management of reserves of the world's main stablecoins, financial products offering exposure to crypto-assets, and the potential concentration of services provided by crypto companies to financial institutions.
- The AMF monitors crypto-asset market developments as part of its supervisory duties. It also includes a section dedicated to crypto-asset markets in its annual Market and Risk Outlook, which considers market capitalisation, price dynamics, and crypto-asset spill overs to traditional finance.<sup>22</sup>
- Furthermore, ad hoc activities include AMF on-site inspections of regulated entities and BdF market intelligence interviews conducted with the crypto-asset sector.

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<sup>20</sup> See [Financial stability report](#). The December 2023 report covers crypto-assets in some detail, whereas the June 2024 report recognises crypto-assets as an emerging risk but does not cover the sector in much detail.

<sup>21</sup> FSB CA recommendation 8 notes that authorities should identify and monitor the relevant interconnections, both within the crypto-asset ecosystem, as well as between the crypto-asset ecosystem and the wider financial system.

<sup>22</sup> The crypto-asset markets section often focuses on global rather than domestic markets. See AMF (2024) [2024 Markets and Risks Outlook](#), July.



A recent assessment by French authorities found that the financial stability vulnerabilities associated with crypto-assets remained stable, while the increased participation of institutional actors in this market was increasing interconnections with the traditional financial system.<sup>23</sup>

The French authorities use several data sources for monitoring and assessing crypto-asset market risks. These include the monitoring of centralised intermediaries and DeFi. For the intermediaries, data used include transaction prices that are usually drawn from a third-party data provider. Data on DeFi mainly come from the total value locked in different DeFi protocols downloaded from data providers, while trading activity is extracted from open data sources.<sup>24</sup> To assess crypto-asset adoption, quantitative and qualitative survey data is used by the French authorities in partnership with other organisations such as the OECD (see Section 2). Data sources from industry associations and market analysts' publications are also used, as are private and confidential data stemming from both off-site and on-site inspections by the AMF and the Autorité de contrôle prudentiel et de résolution (ACPR).<sup>25</sup> ACPR on-site inspections are focused on AML/CFT related data, and such data could cover the nature and amount of transactions and holders of crypto-assets. However, data collection as part of on-site inspections depends on the nature and specific focus of the inspection.

The implementation of MiCAR is expected to improve the availability of reliable data, at least at the European level, due to mandatory reporting and the possibility of controls. National competent authorities (NCAs) such as AMF will also have new regulatory powers under MiCAR to carry out on-site inspections on crypto-asset service providers (CASPs). MiCAR will also require service providers arranging or executing transactions in crypto-assets to report on instances of market abuse, which is not currently covered under the French regime. Defining the procedures for monitoring illegal practices of stablecoin issuers after the entry into application of MiCAR has commenced with the ACPR, in coordination with the AMF and the EBA, which should help mitigate financial stability risks posed by these entities. In addition, MiCAR will establish additional obligations and rules for token issuance processes (including stablecoins), enhancing transparency and disclosure requirements for the issuance and admission to trading of crypto-assets.

## 3.2. Regulating and supervising crypto-asset markets and activities

### 3.2.1. *The regulatory, supervisory and oversight framework for crypto-assets*

**The CA recommendations and GSC recommendations 1 and 2 note that authorities should have and utilise the appropriate powers and tools, and adequate resources to regulate, supervise, and oversee crypto-asset activities and markets, and GSC arrangement and its associated functions and activities, and enforce relevant laws and**

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<sup>23</sup> Banque de France (2023), *Assessment of risks to the French financial system*, December.

<sup>24</sup> Total value locked refers to the total amount of crypto-assets that are held in DeFi services, such as lending or trading platforms. It is a measure of how much money is being used in these services.

<sup>25</sup> The AMF can request any document or information that it considers useful to use in the exercise of its mission. In addition, DASPs are required to report to the AMF any changes in circumstances to the elements originally transmitted when an application was submitted. The Secretary General of the ACPR may request from the entities subject to its supervision (which includes credit institutions, investment firms and insurance companies) any information or documents necessary to carry out the tasks conferred upon the ACPR. In this respect, the ACPR is empowered to request additional information on an ad hoc basis from these entities for financial stability purposes.

**regulations effectively, as appropriate. Authorities should apply comprehensive and effective regulation, supervision, and oversight to crypto-asset activities and markets and GSC arrangements – including crypto-asset issuers and service providers – on a functional basis and proportionate to the financial stability risk they pose, or potentially pose, and consistent with authorities’ respective mandates in line with the principle “same activity, same risk, same regulation.”**

In 2019, France implemented the Action Plan for Business Growth and Transformation (PACTE Law), which established a framework to regulate DASPs and Initial Coin Offerings (ICOs).<sup>26</sup> This was the first such regulatory framework in the EU. The PACTE Law was intended to provide more regulatory clarity to facilitate innovation and experimentation around use cases, while mitigating financial stability, AML/CFT and consumer protection risks.

The Monetary and Financial Code (CMF) provides a definition of ‘digital assets’ and tokens for the purpose of applying the PACTE Law.<sup>27</sup> The definition of digital assets is fairly broad, which may encompass all types of crypto-assets falling under the FSB’s definition, including stablecoins (see Box 2). Meanwhile, it excludes those assets that qualify for financial instruments or saving certificates defined elsewhere in the CMF.

The authorities have continued to enhance the regulatory regime to address new emerging risks arising from crypto-assets. The regime first consisted of two regulatory frameworks - mandatory registration and optional licensing - with more stringent requirements for the latter. The regime also introduced an optional licensing framework for ICOs. The AMF publishes on its website the list of registered or licensed DASPs, and a whitelist of ICOs that have received approval.<sup>28</sup> In February 2023, a new ‘enhanced registration’ regime was introduced which took effect as of January 2024, with some requirements adopted from the optional licensing framework.<sup>29</sup>

### **Box 2: Services provided by DASPs**

The PACTE Law establishes the definition of DASPs as service providers providing the following services in France:<sup>30</sup>

1. custody on behalf of third parties;
2. purchase or sale of digital assets in a currency that is legal tender;
3. trading of digital assets against other digital assets;
4. operation of a trading platform for digital assets;

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<sup>26</sup> See <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000038496102> (in French only). The French Law also defines an ICO as a fundraising transaction carried out through a distributed register system (or "blockchain"), resulting in a token issuance. These tokens can then be used to obtain goods or services. This regime does not apply to Security Token Offerings, but only to the issuance of utility tokens.

<sup>27</sup> See [Code monétaire et financier](#) (in French only). A digital asset is defined as any digital representation of a value which is not issued or guaranteed by a central bank or public authority, which is not necessarily attached to a legal tender and which does not have the legal status of a currency, but which is accepted by natural or legal persons as a means of exchange and which can be transferred, stored or exchanged electronically. A token is defined as any intangible asset representing, in digital form, one or more rights that can be issued, registered, retained or transferred by means of DLT enabling the owner of this type of asset to be identified directly or indirectly.

<sup>28</sup> See the [list of registered and licensed DASPs](#), and the [whitelist of ICOs](#).

<sup>29</sup> The enhanced registration regime was introduced to pursue progressive alignment of requirements with the MiCAR and incorporate lessons learned from the crypto-asset market turmoil starting in 2022. From 1 January 2024 the mandatory registration has been strengthened with additional obligations similar to the ones related to the optional license.

<sup>30</sup> See Articles L54-10-2 and D54-10-1 of the CMF.

5. any of the following services: receiving and transmitting orders for digital assets on behalf of third parties; digital asset portfolio management on behalf of third parties; advice to digital assets investors; underwriting of digital assets; guaranteed placement of digital assets; unsecured placement of digital assets.

Consistent with the CMF's definition of digital assets, the PACTE regime does not apply to services on crypto-assets that meet the characteristics of financial instruments. These activities are subject to other existing applicable regulatory frameworks. For example, services related to crypto-assets qualifying as e-money are subject to the Electronic Money Directive. However, while security tokens are subject to security regulations, the European Pilot Regime<sup>31</sup> further clarifies that security tokens registered with a distributed ledger technology (DLT) market infrastructure will fall under this scope.<sup>32</sup> Activities provided in a fully decentralised manner without any intermediary do not fall within the scope of the PACTE Law, which is consistent with the scope of the MiCAR.

At the EU level, MiCAR entered into force in June 2023.<sup>33</sup> MiCAR introduces a regulatory framework for the issuance (i.e. offering to the public and admission to trading) of stablecoins and provision of crypto-asset services in the EU. It provides for mandatory licencing of issuers of asset-referenced tokens (ARTs) and electronic money tokens (EMTs) as well as CASPs. It also creates a regime on the prevention of market abuse in relation to crypto-assets (see Box 3). MiCAR applied from June 2024 for issuers of ARTs, EMTs and the issuers of such stablecoins and will apply fully from the end of December 2024, including for issuers of other crypto-assets and CASPs. MiCAR will ultimately replace the French regulatory framework for digital assets, and the French authorities are currently preparing for the implementation of MiCAR in cooperation with other national authorities.

### Box 3: MiCAR

MiCAR creates a broad regulatory framework for the crypto-asset market in the EU.<sup>34</sup> The regulation aims to provide a harmonised framework for the regulation of crypto-assets across the EU, while also addressing the specific risks associated with these types of assets.

MiCAR captures crypto-assets that have so far not been regulated by existing EU financial regulatory frameworks (e.g. Markets in Financial Instruments Directive (MiFID II), Payment Services Directive), thus excluding financial instruments and other regulated products in crypto form. It provides a taxonomy of different types of crypto-assets that are subject to specific regulatory requirements. In general, MiCAR provides detailed regulatory requirements for: (1) crypto-asset issuers and offerors; and (2) CASPs,<sup>35</sup> including trading platforms, crypto exchanges for funds or other crypto-assets, custody and administration of crypto-assets, portfolio management, advice, transfer services for crypto-assets on behalf of clients. MiCAR also introduces general obligations for CASPs relating to prudential requirements, governance, identification and mitigation of conflicts of interest, complaints handling and safekeeping of clients' crypto-assets and funds, among others. Lastly, MiCAR provides for rules on

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<sup>31</sup> DLT Pilot Regime, effective 23 March 2023, provides the legal framework for trading and settlement of transactions in crypto-assets that qualify as financial instruments under MiFID II, while facilitating the set-up of new types of market infrastructure.

<sup>32</sup> To guarantee the implementation of the European Pilot Regime, some amendments to the French law have been introduced, in particular to clarify that it is possible for security tokens to be registered with a DLT market infrastructure and that the two types of securities existing under French law – "au nominatif" or "au porteur" - fall within the scope of the Pilot Regime.

<sup>33</sup> See [here](#).

<sup>34</sup> Available [here](#).

<sup>35</sup> The terms referring to crypto-asset service providers may differ in various jurisdictional or international frameworks, including CASP, DASP, or VASP, etc.

market abuse including the prohibition of market manipulation and insider dealing with respect to crypto-assets.

Besides clarifying the regulatory obligations that apply to issuers of ARTs and EMTs, MiCAR introduced a classification for significant stablecoins and the requirements that will apply, such as more stringent reserve and own funds requirements and liquidity stress-testing.

MiCAR also clarifies the regulatory powers of the European Supervisory Authorities and NCAs in regulating and supervising different types of crypto-asset activities and market participants in the EU, including the cooperation and sanctions framework.

The roles of the various French authorities in respect of crypto-assets are summarised in Box 4.

#### **Box 4: Roles of the French authorities in crypto-asset markets**

**AMF:** The AMF regulates the French financial market, its participants and financial products. It also ensures that investors are properly informed. As an independent public authority, it has regulatory powers and a substantial level of financial and managerial independence.<sup>36</sup> The AMF has been supervising the cryptocurrency market in France since 2019, overseeing ICOs and DASPs, which are required to register with the AMF. The AMF's responsibilities include monitoring market activities, providing regulatory guidance, and protecting consumers by enforcing transparency and fair practices within the crypto-asset sector.

**ACPR:** The supervision of banking and insurance undertakings is carried out by the ACPR. The ACPR is operationally attached to the Banque de France and ensures the protection of customers in the banking and insurance sectors, excluding investors in financial securities, which fall under the remit of the AMF and is also tasked with combating money laundering and the financing of terrorism.<sup>37</sup> During registration of a DASP, the AMF will obtain the assent of ACPR. Once the DASPs are registered with the AMF, with prior approval from the ACPR, they are then subject to ongoing supervision and control by the ACPR (for AML/CFT).

**Banque de France:** The BdF works on crypto-asset markets because of its mandates for financial stability, the smooth functioning of market infrastructures and payment systems and support of the national economy. During the DASP authorisation process, the BdF also issues an opinion on the security of payment means for the issuance of EMT and ART if used for payment purposes. Through its Financial Stability Review, it analyses the implications of crypto-asset markets for the financial sector in France.

**Ministry of Finance (MoF):** The MoF has multi-faceted roles when it comes to crypto-asset markets in France, including on the legislative and taxation fronts. It typically leads in negotiating at EU level the EU directives and regulations that are either directly regulating (e.g. MiCAR) or of relevance to digital assets (e.g. Digital Operational Resilience Act (DORA)). After such acts are adopted by the EU institutions (European Parliament and the Council of the EU), the MoF will also be the lead to propose amendments to transpose the relevant EU provisions in the French legal framework, typically the CMF. Furthermore, the MoF is responsible for all taxation aspects related to crypto-assets.

In France, the AMF is the primary authority responsible for registration and licencing of DASPs, and to grant approvals for ICOs' optional licenses. The AMF has put in place internal policies and processes and dedicated resources to fulfil the regulatory and supervisory mandate granted by the PACTE Law. For instance, the AMF has convened an internal committee comprising

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<sup>36</sup> See [here](#).

<sup>37</sup> See [here](#).

representatives of all the directorates involved in DASP matters. The committee meets monthly to discuss regulatory, supervisory and enforcement matters related to DASPs. The AMF also created a licensing and supervision team which works closely with other directorates on various matters related to DASPs. For instance, it provides clarifications or guidance on the applicable rules for other directorates through the pre-application process. Upon approval, the AMF is responsible for ongoing supervision of digital asset services conducted by registered and licensed DASPs. To this end, the AMF established an ad hoc team that monitors illegal online marketing (in particular from overseas-based unregulated service providers) and social media activities, with a focus on so-called influencers' promotion.

- The AMF is empowered by the PACTE Law to authorise registrations and licencing for DASPs depending on the services they provide. DASPs that provide services of categories (1) to (4) in Box 2 to French-based clients must register with the AMF. This includes overseas-based entities that plan to offer services in France. DASPs that provide services of category (5) may request an optional licence from the AMF.<sup>38</sup> Only one entity has been licensed under this regime, yet it has not started to provide its services at the time of writing. However, service providers may offer digital asset services to French customers without a registration or license if certain conditions are met, including if the relationship is based on the principle of reverse solicitation.<sup>39</sup>
- The PACTE Law empowers the AMF to approve ICOs. Issuers of utility tokens may request an optional approval in view of carrying out an ICO. The approval signifies the regulator's review of the ICO's white paper, potentially offering some level of credibility and investor confidence. Even though the AMF's approval is optional, ICOs that do not receive AMF approval will be prohibited from direct solicitation, patronage and sponsorship activities.
- The AMF does not have on-site supervisory and inspection powers over registered DASPs, which are instead granted to ACPR for AML/CFT purposes.<sup>40</sup> However, the enhanced registration and the optional license regimes empower the AMF to conduct inspection on the DASPs subject to these frameworks (see below for description of the enhanced registration framework). As there is only one licensed DASP, and for which no inspection has yet been conducted, the information arising from such inspections and examinations is limited.

As the requirements in the 2019 PACTE Law focus on AML/CFT issues which are the mandate of the ACPR, a coordination mechanism has been established between the AMF and the ACPR. For all applications, the AMF checks the good repute and competence of the managers and beneficial owners of the applicant (see section below) and seeks clearance on these matters

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<sup>38</sup> The list of all licensed DASPs is available on the website of the AMF; see [here](#).

<sup>39</sup> Other conditions are that the service provider does not target French customers, is not established in France or on the AMF blacklist, and does not provide services subject to other types of regulation (e.g. MIFID II).

<sup>40</sup> In turn, ACPR has conducted a number of on-site inspections on the internal control systems and implementation of AML/CFT frameworks of certain DASPs. One such inspection revealed failures of such controls, leading to the AMF withdrawing the registration status of BYKEP SAS.



from the ACPR.<sup>41</sup> The AMF and the ACPR also share a summary file of the application cases they have in stock, enabling them to assess the workload, identify problem areas and keep track of progress. Monthly meetings are organised to discuss application cases with the management of each authority and to agree on the next steps in each application. If necessary, ad hoc meetings are organised and the two authorities can also contact each other via messaging, which assists coordination. Besides matters related to registration, the French authorities also coordinate with each other on enforcement matters. For instance, the AMF, the ACPR, the Financial Prosecutor (Parquet financier), and the General directorate for Competition, Consumer Affairs and Fraud Control work together on issues related to frauds.

The authorities engage closely with DASPs through different channels to help DASPs better understand the regulatory requirements. The AMF and ACPR often organise sessions with industry participants to share their latest regulatory expectations and provide clarifications where needed. For instance, the AMF has conducted webinars on DASP regulation under MiCAR, and workshops related to crypto-assets' authorisation and supervision have been organised under the aegis of the joint *Forum Fintech* co-led by ACPR and AMF, which stakeholders have found beneficial. Adan, the French representative association of the crypto-asset sector, also plays a key role in facilitating the dialogues between the authorities and the DASPs, for instance by coordinating with the AMF to present any updates on the prevailing regulations to its members.

While the authorities have noted that most traditional financial institutions have not applied for an optional license under the PACTE regime, some such institutions might be inclined to apply for the mandatory license under the MICAR regime, which bears close monitoring by the authorities given the interconnectedness with the traditional financial system.

### *3.2.2. Governance, coverage of identified risk, data and disclosure*

**CA recommendations 4, 5, 6, 7 and GSC recommendations 4, 5, 6, 7, 8 set out high-level regulatory requirements on robust frameworks for governance, risk management, data collection, and disclosure. The recommendations, in particular, highlight several categories of material risks that crypto-asset service providers are expected to address.**

The PACTE Law is intended to provide a simplified regulatory framework to bring certain crypto-asset market participants into the regulatory perimeter. For that purpose, the requirements focus on basic requirements with which a DASP should comply. The requirements mainly focus on fit and proper checks as well as appropriate measures to mitigate AML/CFT risks, which a DASP needs to comply with as part of the mandatory registration with the AMF. The requirements are:

1. fit and proper requirements of the management and/or individuals with a large stake in or otherwise controlling the DASP;
2. that the DASP is established in France or in another EU member; and

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<sup>41</sup> The assessment of the members of the management body and of the shareholders is performed by the AMF on the basis of the joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU as stated in the AMF Q&A. See [here](#).

### 3. compliance with AML/CFT regulations.<sup>42</sup>

During the review of the applications for a DASP registration, the AMF and the ACPR primarily focus on assessing the knowledge and competence of the managers of the applicant in discharging their responsibilities. The authorities also pay particular attention to the managers' understanding of the risks to which the DASP is exposed. For DASPs providing digital asset custody or trading digital assets against legal tender, both *a priori* and *a posteriori* reviews are applied. Other DASPs subject to mandatory registration are checked *a posteriori*.

DASPs are required to provide adequate disclosures to the customer, including the services they provide, status of their licence, key definitions of technical aspects and risk warnings. The disclosures should be provided in an understandable, clear and non-misleading manner.

The PACTE Law does not require registered DASPs to submit any regulatory returns to the authorities on a regular basis. It does not contain specific data collection and reporting requirements, and the authorities have not specified any dedicated data collection templates. However, the AMF is empowered to request data from registered DASPs on an ad hoc basis.<sup>43</sup> The ACPR has requested AML/CFT related data during the conduct of onsite supervisions, which could include the nature and number of transactions and holders of crypto-assets. Furthermore, annual mandatory reporting shall be sent by registered DASPs to ACPR for the purposes of AML/CFT supervision.

Under the optional license regime, DASPs face additional requirements in terms of organisational structure, financial resources and business conduct. In particular, licensed DASPs are subject to additional requirements related to conflicts of interests, operational resilience (e.g. safeguarding essential data and functions in event of system interruption), and data management (e.g. maintaining and safeguarding data). On financial resources, licensed DASPs are required to either subscribe to an insurance policy or hold minimum regulatory capital.<sup>44</sup> Moreover, the licensed DASP is required to have equity that exceeds 4.5% of the digital assets it holds on its own account. At present, there is no specific legal disaggregation of crypto services required. However, on a case-by-case basis, the AMF may assess the risks posed by potential conflicts of interest arising from the services provided by the DASPs. Where a DASP executes activities on behalf of their clients and for their own funds or when a certain situation could harm clients' interests, the AMF may require a strict separation of certain functions. The French authorities expect that MiCAR will specifically address risks arising from conflicts of interests (see more details in 3.2.4).

The requirements in the enhanced registration regime broadly align with those of the optional licensing regime. Broadly, the enhanced registration regime sets out requirements on governance, operational resiliency, and to address conflicts of interest in light of the lessons learned from the crypto-asset market turmoil, especially the failure of trading platforms such as

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<sup>42</sup> See Article L54-10-3 of the CMF.

<sup>43</sup> Specifically, Article L54-10-3 of the CMF gives AMF the power to request any document or information that it considers useful in the exercise of its mission, while Article D54-10-9 of the CMF requires DASPs to report to the AMF on any changes in circumstances to the elements originally transmitted when an application was submitted.

<sup>44</sup> See Article L54-10.5.1 of the CMF. The nature of the insurance is defined in Article 721-5 of the general regulation of the AMF, and the capital requirements are defined in Article 721-6 of the general regulation of the AMF and in instruction DOC-2019-23, which foresees minimum capital requirements of EUR 50,000 or 150,000 depending on the services being provided by DASPs.

FTX (see Annex 2).<sup>45</sup> For DASPs providing custody services, additional provisions include establishing a custody policy, providing for prompt return of customers' digital assets, segregating customers' assets from own assets and refraining from use of customers' assets. There are currently no regulations implemented with regard to ownership rights of digital assets, and in turn private law obligations apply. As for operational resilience, DASPs are required to undertake a cybersecurity audit to ensure the resiliency of IT systems and cyber security. They are required to have in place adequate measures to maintain and safeguard data, including data recovery systems and electronic systems that guarantee the confidentiality, integrity, authenticity and availability of data. The AMF has also imposed a requirement for applicants to perform a comprehensive security audit by a certified information system security auditor.

The PACTE Law does not provide requirements specific to stablecoins (see details in 3.2.6). In France, several DASPs already issue Euro stablecoins. As the stablecoin part of the MiCAR started applying in June 2024, these stablecoin issuers are now subject to the MiCAR.

### *3.2.3. Compliance before commencing operations*

**CA and GSC recommendation 1 and GSC recommendation 10 highlight that authorities should require that crypto-asset issuers and service providers meet all applicable regulatory, supervisory and oversight requirements of a particular jurisdiction before commencing any operations in that jurisdiction and adapt to new regulatory requirements as necessary and appropriate. When crypto-asset issuers or service providers are not complying with applicable laws or regulations, authorities should have the powers and capabilities to require corrective actions and take enforcement actions as appropriate.**

As stated above, the PACTE law requires DASPs to seek registration with the AMF before they offer digital asset services. It also imposes requirements on optional authorisation of ICOs. The AMF also has powers to take enforcement actions against registered and licensed DASPs, which may include withdrawing registration and licenses. The AMF can also ask DASPs for any document or information useful to its mission. In the case of withdrawals, the DASP is required to inform the public of its deregistration and when providing the custody service, it must proceed to the restitution of the assets without undue delay. The AMF has removed the registration of a DASP that was no longer complying with the requirements, and removed another three registered DASPs which had either ceased the relevant activities or undergone a reorganisation.

The AMF can also suspend registrations or take provisional measures if there are threats to the solvency or liquidity of a DASP, stability of the crypto market, or if client interests may be compromised. In practice, the AMF has not taken such actions.

In case of illicit activities, the AMF team in charge of surveillance of financial offers would typically detect such DASPs or issuers through its monitoring of illegal online marketing (in particular for overseas unregulated service providers) and the influencers' promotion. Most of the time, the service providers illegally rendering services in France are detected by retail investors who then contact the AMF's hotline (Epargne Info Service - Savings Information Service).

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<sup>45</sup> See Article L. 54-10-3 of the CMF.



The AMF primarily adopts a blacklist approach to deal with non-compliant DASPs or issuers.<sup>46</sup> The blacklist mainly consists of those conducting activities in France without a registration or a license from the AMF, and websites that engage in frauds or scams.<sup>47</sup> It can take up to four months for authorities to blacklist an unauthorised entity. The authorities note this is because French law does not authorise the blocking of a website on the order of an administrative authority; rather, such blocking requires prior intervention of a judge.<sup>48</sup> Updates to the blacklist are broadcasted by several media to raise public awareness. The authorities have noted cases of blacklisted entities that decided to comply with the French regulation to continue providing services to French customers.

Besides the blacklist, the AMF may also work with other authorities to consider blocking or closing the websites of non-compliant entities, and makes the public aware of such powers.

### *3.2.4. Addressing heightened risks for MCIs*

**CA recommendation 9 highlights the requirement for crypto-asset service providers to comprehensively address the risks associated with individual functions and the risks arising from the combination of functions. MCIs should have measures to address risks associated with conflicts of interests.**

The PACTE Law does not set out specific requirements on MCIs among DASPs, nor provide a regulatory definition or category of MCIs. However, the optional license and the enhanced registration regimes provide specific requirements that are closely related to key risks of MCIs. For example, such DASPs must have a system for managing conflicts of interest, a key risk driver for MCIs mentioned in CA recommendation 9. The AMF also further requires that DASPs establish, implement and keep operational an effective and appropriate policy for the prevention, detection, management and disclosure of conflicts of interest between itself and: (a) its shareholders, or any person directly or indirectly linked to it by a relationship of control; (b) its managers and employees; and (c) at least two of their clients who also have a conflict of interest with each other. This policy shall identify situations which give or could give rise to a conflict of interest detrimental to clients' interests. It shall define the procedures to be followed and the measures to be taken to prevent or manage such conflicts.

When these measures are not sufficient to guarantee with reasonable certainty that the risk of harming clients' interests will be avoided, the service provider shall clearly inform the clients of the general nature or source of these conflicts of interest, as well as any measures taken to mitigate them, before acting on their behalf. This information shall be provided in electronic format and shall include sufficient details, taking into account the nature of each client, to enable each client to make an informed decision about the service in which the conflicts of interest arise. The DASP shall publish information about the measures taken to mitigate the risk of conflicts of interest in a prominent place on its website. When the DASP is an investment services provider,

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<sup>46</sup> The blacklist is published by the AMF with updates. See [here](#).

<sup>47</sup> Before adding an e-mail address or a website to the blacklist, the AMF sends a reminder to the illegal operator. The website or the email address will be added to the blacklist if the AMF does not receive a response or receives an unsatisfactory answer.

<sup>48</sup> The AMF sends a formal notice to operators and internet service providers to cease any illicit activity in the French jurisdiction, following which there is a five-day period to answer the AMF's observations. If no action is undertaken by operators, then the Chair of the AMF may refer to the Court and have internet service providers blocking access to the websites.

the conflict of interest management policy shall take into account the risks of conflict of interest between digital asset services and investment services and, for portfolio asset management companies, between digital asset services and collective investment management activities.

Custody services, which are common important services of MCIs that often lead to amplified risks, are subject to detailed requirements on client agreement, including respective obligations of service provider and client, clear, fair and non-misleading information and fees policy, custody policy and segregation of client assets versus own assets.

Although MiCAR does not provide a specific category of MCIs, it includes more specific requirements to address the common risks of MCIs. These include:

- The power for competent authorities to take appropriate measures to address risks posed by the influence of shareholders or members who have a qualifying holding, where such influence is likely to be prejudicial to the sound and prudent management of the CASP; and
- CASPs must implement and maintain effective policies and procedures to identify, manage and disclose conflicts of interest, taking into account the scale, nature and range of crypto-asset services provided.

The European supervisory authorities are also developing a regulatory technical standard in relation to conflicts of interest which will further specify requirements specific to CASPs that combine multiple functions.<sup>49</sup>

### *3.2.5. Cross-border cooperation, coordination and information sharing.*

**CA and GSC recommendations 1 and 3 set out expectations for authorities to cooperate and coordinate with each other to foster efficient and effective communication, information sharing and consultation.**

The French authorities use various arrangements in cooperating and communicating with authorities in other jurisdictions. Most of these arrangements leverage on existing cooperation and information sharing mechanisms. At the European level, the ACPR exchanges confidential information with the members of the EBA.<sup>50</sup> Furthermore, EU texts applicable to the AMF generally include an obligation for NCAs to cooperate and exchange information in the context of that text. In future, MiCAR will include implementing texts on practical aspects that authorities need to cooperate with each other. The European Securities and Markets Authority (ESMA) quarterly Digital Finance Standing Committee Discussions provides a venue to discuss specific cases regularly, whenever the discussion relates to a matter of shared interest between authorities.<sup>51</sup>

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<sup>49</sup> ESMA (2024), *Final Report: Draft technical Standards specifying certain requirements in relation to conflicts of interest for crypto-asset service providers under the Markets in Crypto Assets Regulation (MiCA)*. May

<sup>50</sup> Sharing of information among NCAs which are members of ESMA takes place under Regulation 1095/2010 of the European parliament and of the Council of 24 November 2010, and under the ESMA Multilateral Memorandum of Understanding on information and cooperation exchange, which allows for the sharing of confidential information between European authorities.

<sup>51</sup> For example, the AMF has brought for discussion the situation of an entity located in France that may want to establish itself elsewhere within the Union.

The AMF is a signatory of the IOSCO Multilateral Memorandum of Understanding (MMoU) and has rich experiences in applying it for cooperation and information sharing with signatories in other jurisdictions. As such, the AMF leverages MoUs to benefit from other IOSCO members' commitment to provide each other with the fullest assistance allowed by its laws, and *vice versa* (see Box 5). Assistance extends to enforcing the regulations of each other's financial authorities, including those related to licensed or registered market intermediaries.<sup>52</sup>

In particular, the MoUs and the IOSCO MMoU facilitate the AMF to cooperate with authorities located in tax havens, to access information regarding entities which can be easily located and identified. The AMF has also long been playing an active role in promoting the use of the IOSCO MMoU among a wide range of jurisdictions. However, the current crypto-asset market structure still presents challenges in dealing with off-shore activities that are operated by cross-border crypto-asset intermediaries, mostly large MCIs which adopt opaque governance structures. In such cases, the AMF lacks information to identify the authority to be contacted.

#### **Box 5: Use of MMoU and other existing mechanisms for crypto-asset activities**

##### **AMF**

Over the past year, the AMF has received and sent fewer than five requests (with international counterparts) related to crypto-assets, primarily concerning market abuse issues. These requests were facilitated by the IOSCO MMoU. The MMoU serves as a vital tool for enhancing cross-border regulatory cooperation and information sharing, particularly in the evolving landscape of crypto-assets.

In the context of DASP registration, the AMF actively engages with its international counterparts to assess the reputational integrity of these entities, including the background of their directors and shareholders. In 2023, the AMF initiated approximately 75 requests to 35 different counterparts while also receiving around five requests regarding DASP assessments. This exchange of information is crucial to ensure that all registered DASPs meet the necessary regulatory standards.

Beyond these formal requests, the AMF has significantly increased its dialogue with both EU and non-EU counterparts concerning crypto-assets. These discussions take place during international meetings, such as those organised by IOSCO, as well as through numerous bilateral engagements. Such interactions are instrumental in the DASP registration process and provide valuable insights into the regulatory frameworks adopted by other jurisdictions. The AMF notes that this collaborative approach strengthens its understanding of global regulatory trends and its capability to navigate the complexities of the crypto-assets market.

##### **ACPR**

ACPR has signed several bilateral MoUs with financial supervisory authorities (in New York State, Taiwan, Hong Kong, South Korea and Singapore) on innovation activities that fosters exchange of information between the authorities. It has also signed a cooperation framework regarding innovation with the Japan Financial Services Agency. That MoU has been used twice for matters regarding crypto-asset activities (once about issuance of a specific stablecoin, once about global activities of an MCI), and allows a quick contact between the supervisory authorities to exchange information about these cross-border activities.

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<sup>52</sup> While the scope of assistance of the IOSCO MMoU relates to securities and derivatives, it proves sufficiently flexible to remain relevant and effective in the face of changes in traditional markets, including when new products such as crypto-assets or services, are introduced to the market. In addition, IOSCO has worked to provide clarity to IOSCO member authorities and recall that MMoU signatories should make every effort to fulfil all types of requests for assistance from a foreign counterpart, including those that pertain to new products and services.

### 3.2.6. Stablecoins

**GSC recommendation 9 introduces requirements on providing robust legal claims to all users, having an effective stabilisation mechanism and appropriate prudential requirements to address risks related to potential runs on the issuer or the reserve assets.**

The PACTE Law does not distinguish stablecoins from other digital assets, which means there is no existing regulation specific to stablecoins. Issuers and service providers of stablecoins are subject to the same regulations for DASPs and ICOs under the PACTE Law. Crypto-assets that meet the characteristics of existing instruments are covered by the existing regulatory framework (e.g. financial instruments and electronic money), which would be legally qualified according to their applicable regulatory framework. Although the PACTE Law does not have prudential requirements specific to stablecoins, the requirements on subscription to insurance policies or holding capital are applied to DASPs that seek to obtain the optional license, including those dealing with stablecoin activities.

The MiCAR's stablecoin provisions started applying at the EU level on 30 June 2024. The MiCAR defines two categories of crypto-assets that may be regarded as stablecoins: EMTs and ARTs (see Box 6 below). Detailed requirements on issuance, redemption rights, stabilisation mechanisms and prudential standards are provided. It also defines thresholds to identify significant stablecoins that are subject to higher regulatory standards. Besides, MiCAR also clarifies that EBA is mandated with the task of supervising all the issuers of significant ARTs, and electronic money institutions (EMIs) issuing a significant EMT.<sup>53</sup> The stablecoin provisions under MiCAR are already applied in France, superseding the PACTE Law.

Several French entities have already issued stablecoins under the PACTE Law, such as Casino Groupe with its Euro stablecoin Lugh or Société Générale–FORGE (SG Forge) with its EUR Coinvertible (EUR-CV). To continue to be issued and distributed in EU, these stablecoin issuers will need to be fully compliant with applicable laws. For example, since July 2024, two issuers had obtained EMI status granted by the ACPR and notified a white paper to be compliant with MiCAR as an issuer of a stablecoin pegged to an official currency within the EU (i.e. qualified as an EMT under MiCAR): SG Forge (with its EUR-CV) and Circle Internet Financial Europe (for both USDC and EURC).

#### **Box 6: Key aspects of regulations on stablecoins under MiCAR**

The MiCAR distinguishes two categories of stablecoins to which it dedicates distinct regulatory regimes:

- **EMTs (stablecoins pegged to one official currency):** EMTs are subject to prudential rules applicable to EMI or Credit Institutions (CIs) since EMT issuers need to be authorised as either a CI or an EMI pursuant to MiCAR Article 48(1). Capital requirements of EMIs and CIs are computed with regard to the size of their activity but also a floor level of own funds (EUR 350,000 for EMIs for instance).<sup>54</sup> EMIs are not subject to liquidity requirements whereas CIs are. If EMTs

<sup>53</sup> According to MiCAR, the supervisory responsibility for a credit institution issuing a significant EMT remains with the relevant competent authority and is not transferred to the EBA. In June 2024, EBA issued the package of technical standards and guidelines under MiCAR on prudential matters, namely own funds, liquidity requirements, and recovery plans. See [Press Release and the Guidelines](#).

<sup>54</sup> EMI prudential requirements are defined as per Directive 2009/110/EC Article 5 and CI prudential requirements are provided in the EU Capital Requirements Regulation.

are classified as significant according to criteria set out in MiCAR Article 43, then additional prudential requirements mentioned in MiCAR Article 58 apply regarding higher capital requirements and liquidity requirements. MiCAR requires EMT issuers to ensure redemption rights with holders having a claim against the issuer, and the conditions for redemption should be prominently described in the white paper.

- **ARTs (stablecoins pegged to several official currencies or any other assets):** Prudential and governance requirements apply to its issuer (such as own fund requirements in Article 35, fit and proper assessment of a management body and good repute of main shareholders). If ARTs are classified as significant according to the criteria set out in MiCAR Article 43, then additional prudential requirements as per Article 45 of MiCAR apply regarding higher capital requirements and liquidity requirements. Regarding redemption rights, MiCAR requires that the holder has a claim against the issuer or reserve assets. Redemption fees are prohibited. The issuers must establish a policy on the permanent right of redemption that sets out the conditions, procedures, valuation principles, settlement conditions, and market variation mitigation measures.

MiCAR requires legal establishment in the EU and an authorisation by the respective NCA as a precondition for any issuance of ARTs and EMTs. All elements of the stablecoin arrangements, including redemption rights, reserve assets, the rights and risks to which holders may be exposed must be disclosed in the crypto-asset white paper.

### 3.2.7. *The transition to the MiCAR*

With MiCAR entering into application,<sup>55</sup> the AMF will act as the main competent authority for its implementation in France. The French law is expected to clarify how the equivalence between the digital assets regime under the PACTE Law and the crypto-assets regimes under the MiCAR will be established, so that entities regulated in France under the PACTE Law can continue their activities until the end of the transition period. To facilitate this transition, the AMF has begun to organise meetings with DASPs as well as public seminars to share about the application process and clarify certain expectations. At the same time, the authorities need to ensure that the personnel are adequately staffed and trained in order to handle the volume and complexity of applications under MiCAR efficiently.

MiCAR covers specific requirements on data collection, business continuity, and cyber security. It also refers further to the application of other relevant European legislation, including the General Data Protection Regulation – covering the protection of personal data – and the DORA that targets aspects relating to the collection and storage of data in the context of operational resilience and business continuity. Stablecoin issuers must have in place effective control mechanisms and procedures for risk management, concerning notably information and communication technology risks as required by the DORA (including the management of risks arising from reliance on third parties).

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<sup>55</sup> The MiCAR entered into force on 29 June 2023. It entered into application on 30 June 2024 for the provisions on stablecoins (Title III and IV) and will enter into application on 30 December 2024 for the rest of MiCAR (including rules on crypto-asset service providers and on addressing market abuse).



## 4. Conclusions and recommendations

The French authorities have made significant progress in monitoring, regulating and supervising crypto-asset markets in recent years. They have established a regular monitoring mechanism for crypto-asset market developments and risk trends as part of the financial stability monitoring framework of the BdF, with the information shared with the AMF, the ACPR, and the MoF. Some outcomes of this monitoring are published, in particular by the BdF and the AMF, which increases public awareness of developments in crypto-asset activities and markets.

The French authorities successfully brought a large part of the crypto-asset market into the regulatory perimeter by implementing the 2019 PACTE Law to complement existing sectoral regulations. Introducing and implementing the registration and licensing regime makes clear to the public and industry participants that crypto-asset issuers and service providers should not operate in an unregulated space. Even though the PACTE Law largely focused on mitigating AML/CFT risks, it provided a supervisory lever for the authorities to monitor and intervene to mitigate other risks if needed. For instance, after the collapse of FTX in November 2022, the AMF was able to conduct ad hoc surveys on registered DASPs to assess the impact on their business and customers. Although the French authorities regarded the ICO regime as less successful than envisaged, that regime was introduced in 2019 at a time when there was limited international guidance by SSBs on the regulation of crypto-asset issuers. In this regard, the AMF was fairly progressive and innovative in designing and implementing the ICO regime.

Ahead of the MiCAR implementation, the PACTE Law enabled the French authorities to build up their regulatory expertise in crypto-assets. Where the understanding of the crypto-asset space was still limited among many regulators, the framework allowed the authorities to understand first-hand the business models that DASPs operate, and the risks that crypto-assets pose to financial stability, AML/CFT and investor protection. Furthermore, the authorities have continued to monitor the latest market developments and the outcomes of the regulatory framework. The introduction of the enhanced registration framework in 2023 reflects the authorities' understanding of the evolving risks posed by crypto-assets, as they drew important lessons from the crypto-asset market turmoil in 2022. The regulatory experience from the PACTE Law has enhanced the authorities' readiness to implement MiCAR.

The PACTE Law has also fostered regulatory literacy and awareness among the crypto-asset industry in France, which consists of many small start-up firms with limited knowledge of financial regulation. At the onset of the PACTE Law, the French authorities prioritised the need to help guide applicants through the application process for a registration or license. This was done through bilateral regulatory engagements and industry-wide dialogues, with the support of Adan. Such industry engagements have been valuable platforms for the authorities to share their regulatory concerns and for the applicants to directly address them. The authorities note that through this industry engagement, the quality of the authorisation and licensing applications has improved over time. The regulatory clarity provided by the PACTE Law, as well as the willingness of the authorities to engage the industry, also attracted many DASPs and other ancillary service providers to establish operations in France.

Although the PACTE Law is a simplified framework, the AMF's black-listing approach for identifying entities illegally providing crypto-asset services has been a useful enforcement tool that provides public transparency. Investors and users of crypto-assets are informed of the risks

in dealing with unregulated or non-compliant service providers. The publication of a whitelist of registered DASPs also encourages crypto-asset service providers to actively engage with the regulators. The AMF has recently enhanced its blacklist by creating a standalone blacklist for DASPs and ICOs which are not compliant under the PACTE Law. As an active signatory of the IOSCO MMoU, the AMF leverages past experiences to facilitate cooperation and information sharing with other IOSCO signatories when dealing with cross-border activities.

At the same time, as is the case in other jurisdictions, further steps can be taken to strengthen the regulatory framework for crypto-assets and stablecoin markets. These include: facilitating a smooth transition to MiCAR; strengthening enforcement efforts; and promoting cross-border cooperation and information sharing.

## 4.1. Enhancements expected from MiCAR

There are several gaps in the current French regulatory framework for crypto-asset activities that are expected to be addressed by MiCAR.

### 4.1.1. *Data collection and reporting*

The French authorities note that the monitoring and assessment of crypto-asset market risks lacks reliable data. Relying on commercial data providers can expose analyses of financial stability risks to bias due to the mapping and calculation done by the individual data provider, or even to inaccurate data based on false declarations of crypto-asset entities. The reliance on private sources and the absence of reliable data collection and reporting frameworks (besides AML/CFT reporting) impedes the authorities' ability to identify, assess and mitigate risks that may arise beyond financial integrity (i.e. AML/CFT reporting requirements) and is inconsistent with FSB recommendations.<sup>56</sup> Furthermore, the structure of crypto-asset service providers that combine several functions as part of global crypto conglomerates presents an obstacle to comprehensive supervision and regulation of their activities for French authorities. In the absence of reliable data, it is difficult to assess the extent of crypto-conglomerates' activities.

MiCAR provides detailed requirements on data collection and reporting. It gives French competent authorities powers to verify data quality through inspections where currently the AMF has no inspection powers with respect to registered DASPs under the PACTE Law, and gives a supervisory mandate for ESMA on significant CASPs. The data gaps noted above may be effectively addressed by MiCAR. Nevertheless, cross-border cooperation and prompt global implementation of the FSB CA and GSC recommendations will be needed to strengthen the effectiveness of regulation and supervision of MCIs and mitigate concerns around unregulated entities operating in jurisdictions that has not implemented these recommendations.

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<sup>56</sup> FSB CA recommendation 6 stipulates that authorities should require crypto-asset issuers and service providers to have in place robust frameworks for the collection, storage, safeguarding, and timely and accurate reporting of data. Without reliable data it would be difficult to assess the build-up of systemic risk and addressing financial stability risks arising from interconnections and interconnectedness stipulated by FSB CA recommendation 8.

#### 4.1.2. *Stablecoin regulation*

The lack of specific regulations for stablecoins presents a gap in the current French framework. Stablecoins pose significant risks (e.g. depeg risk, run risk, banking disintermediation, payment system fragmentation and cryptoisation) and the absence of stablecoin-specific rules and guidance leaves these risks inadequately addressed. The FSB GSC recommendations emphasise the need for comprehensive frameworks to manage the financial stability risks posed by GSCs and stablecoins with the potential to become GSCs, both domestically and internationally. As MiCAR includes detailed regulatory requirements on issuers of EMTs and ARTs including redemption rights, reserve assets and capital requirements, the gap related to stablecoins is expected to be closed.

#### 4.1.3. *Proportionality and detailedness of regulatory requirements*

As it was intended to be simple and preceded the FSB recommendations, the PACTE Law does not include certain requirements specifically mentioned in the FSB recommendations. For example, there are no disclosure requirements related to the provision of custody services,<sup>57</sup> which is proposed by CA recommendation 7. Besides, the PACTE Law is agnostic of the type of governance structure of DASPs. It does not provide explicit requirements strictly tied to the parts of CA recommendations 2 and 4 that emphasise adequate regulatory power and strong governance related to activities conducted in a purportedly decentralised manner. However, the PACTE Law may already capture such cases at a high level. Going forward, the MiCAR will introduce more detailed regulatory requirements on governance and give a clear mandate to authorities to regulate entities even when part of the activity is provided in a decentralised manner.<sup>58</sup> Therefore, this gap is intended to be addressed. Further, the PACTE Law does not impose disaggregation and separate registration for individual functions conducted by DASPs, while the crypto-asset market in France is dominated by a small group of players which tend to conduct multiple functions. Therefore, it remains uncertain if risks arising from certain combinations of functions as mentioned in CA recommendation 9 are adequately addressed.

The PACTE Law also appears to lack proportionality in how certain regulatory requirements are applied, as most requirements apply to DASPs regardless of their risk, size, complexity and systemic importance. CA recommendations 4 and 5 note that governance and risk management frameworks should be proportionate to their risk, size, complexity and systemic importance. One specific aspect relates to the requirement on comprehensive security audit (see 3.2.2). Industry stakeholders have raised concerns on lack of proportionality. Some believe such requirements are not present in existing international standards and pose challenges particularly for entities with global operations. However, the AMF is already aware of these concerns, and believes that applicants should adequately mitigate the cyber risks and the comprehensive audit is important to ensuring this. The authorities also note that in terms of AML/CFT, France adopts the same

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<sup>57</sup> Such as terms and conditions of the custodial relationship and risks faced by clients in the event of the custodian's bankruptcy.

<sup>58</sup> Paragraph 22 of MiCAR states that '*This Regulation should apply to natural and legal persons and certain other undertakings and to the crypto-asset services and activities performed, provided or controlled, directly or indirectly, by them, including when part of such activities or services is performed in a decentralised manner. Where crypto-asset services are provided in a fully decentralised manner without any intermediary, they should not fall within the scope of this Regulation.*'



approach as the risk-based approach mentioned in the FATF recommendations, which take into account the risk, size and complexity of the business of the relevant service provider.

Even though the lack of proportionality did not impede the smaller DASPs from being registered, this reflects the fact that the mandatory registration regime is fairly light-touch and focused on fit and proper checks and AML/CFT controls.

**There are no targeted recommendations on these topics since it is anticipated that these issues will be addressed with MiCAR's detailed requirements in these areas.**

## 4.2. Facilitating a smooth transition to MiCAR

The French authorities note that among all DASPs that have sought to register with the AMF under the enhanced regime, none of the applications were deemed complete by the AMF upon initial receipt, leading to a prolonged authorisation process. This demonstrated that the crypto-asset sector often lacked familiarity with financial regulations, as many of them are new entrants to the financial sector and with a very small staff size. As the enhanced registration framework introduced more detailed requirements, the authorities noted that most applications failed to meet key requirements, such as cybersecurity and segregation of assets. The application documents also often lacked sufficient clarity on the applicants' procedures, lacked critical components or even contained inaccurate references. Common gaps in submitting applications include unclear activities, inadequate experience on AML/CFT issues, excessive use of outsourcing and exposure to cyber risks, and generally incomplete documentation. This means the AMF, the ACPR, and other relevant authorities need to devote more resources in reviewing the applications and supporting DASPs, including through education of key elements of financial regulation. Long delays in obtaining certain documents from applicants further prolongs the application process.

In comparison to the PACTE Law, including the enhanced framework, MiCAR's regulatory requirements will be much more comprehensive and detailed. This suggests that the current issues described above may become more acute and require more resources of the French authorities. The authorities have initially estimated that the authorisation process under MiCAR is anticipated to take no less than six months and will likely present more challenges for new applicants compared to the registered or licensed DASPs under the PACTE Law.

The authorities should consider ways to enhance the transparency of the application process. Under the PACTE Law, the industry has shared their concerns on the long response times from authorities, which reduced business certainty. There were anecdotes that authorities took up to six months to acknowledge receipt of the application, and an average of one to two years for an application to be processed. The authorities should seek to update applicants on the status of their applications in a timely manner and provide more regulatory clarity on the competence required to obtain a license. This could involve triaging the applications, setting clear and reasonable timelines on the key milestones of the application process and, if possible, offering a preliminary assessment on the likely outcome of the application.

The authorities should also strengthen efforts to educate the general public on the new regulatory regime under MiCAR. While the PACTE Law provides a two-tier regulatory regime, nearly all regulated entities are registered instead of licensed. In this regard, authorities had

noted that consumers may not comprehend the difference between a registration and license, where a registered DASP (prior to the enhanced regime) is generally not subject to investor protection rules, unlike a licensed DASP. Authorities have had to intervene to offer clarifications that a registration is not a license, and that DASPs needed to be clearer in their public messages. Given the upcoming MiCAR regime, authorities should strengthen public awareness and understanding of the regulatory framework for CASPs and the transition plans in a clear and comprehensible manner, including the key regulatory obligations and mandatory disclosures required of the CASPs, risks involved in dealing with CASPs as well as the rights of the customer.

The authorities should scale up their resources for the authorisation, regulation and supervision of CASPs under MiCAR. There are currently 7-8 full-time equivalent (FTEs) in the AMF's DASP team, up from two when the PACTE Law was agreed. The ACPR dedicates approximately 10 FTEs that are partly working on the assessment of DASPs' AML/CFT requirements. The authorisation of DASPs were limited by the availability of staff resources at the AMF. The AMF also noted challenges in hiring and retaining staff in light of competitive remuneration from the market amidst a small global talent pool. This led to high turnover within the relevant AMF teams, resulting in the loss of institutional knowledge amidst frequent handovers of licensing cases between staff. The DASP applications, which were generally more complex than that in traditional financial markets, also necessitated more senior managerial involvement. When MiCAR enters into force, the resource demands in authorisation, regulation and supervision of CASPs will significantly scale up because of its wider and more complex scope of regulations than that under PACTE Law. In particular, the AMF, as the primary authority responsible for the regulation of crypto-asset service providers, will be required to process the licensing applications of the PACTE-registered DASPs by the end of the transition period, as well as new CASP applicants which are currently not registered under the PACTE Law. In this context, the authorities should prioritise staff and managerial resources, both in terms of number and competency, in its internal evaluations in order to facilitate a smooth MiCAR implementation.

Going forward, because of the experience arising from implementing a regulatory regime under PACTE law in particular around custody and outsourcing, the French authorities are now relatively well positioned to manage the MiCAR transition.

- **Recommendation 1:** The authorities should promote a smooth transition to MiCAR by crypto-asset service providers, ensuring adequate resources to process them (particularly at the AMF) and to provide capacity building, improving transparency in the application process and ensuring legal/regulatory clarity on requirements.

### 4.3. Strengthening enforcement efforts

Under the PACTE Law, the authorities have relied on blacklisting as the main enforcement tool to deter unregistered or unlicensed (i.e. unauthorised) entities from providing DASP services in France. The blacklist sought to apply some pressure for entities to seek the necessary authorisation, while warning the general public against dealing with such entities. The blacklist has had some success, including where blacklisted entities decided to comply with the French regulation in order to continue providing services to French customers. However, many entities continue to target the French public without authorisation, which highlights the limitations of blacklisting as an effective enforcement tool. Customers continue to be exposed to the risks of

dealing with unauthorised entities, while regulated DASPs have expressed concerns around the lack of enforcement actions.

In this regard, the authorities should review and consider increasing the pace of enforcement actions and assess the need for widening its range of enforcement tools. Currently, when there is a reported case of an unregistered DASP, authorities will first assess if the service provided is a regulatable activity under the PACTE Law and if so, engage the entity to apply for authorisation where warranted. Authorities may take up to four months to blacklist an unauthorised entity. The reverse solicitation principle may lead to broader interpretations by DASPs and issuers. This will present further challenges for the authorities in their enforcement actions. For enforcement efforts to be more effective, the authorities should seek to reduce the time taken to blacklist an unauthorised entity having in mind the legal constraints of such enforcement, and may consider geo-blocking of certain websites or even pursuing sanctions against such entities. This will send a more credible signal to unauthorised entities about the authorities' resolve to pursue enforcement action against nefarious actors, which would in turn strengthen the effectiveness of its regulatory and supervisory framework.

- **Recommendation 2:** The AMF should review and consider improving the pace of enforcement activities, such as blacklisting and closing websites, and assess the need for other enforcement tools.

#### 4.4. Promoting cross-border cooperation and information sharing

Crypto-assets are borderless in nature, which allow issuers and service providers to operate activities globally. Activities that originate from one jurisdiction may easily be accessible to customers in other jurisdictions without the need to establish a physical office. Difficulties in cross-border enforcement - with respect to unregulated service providers operating in overseas jurisdictions which may be at different stages of implementing global regulatory standards - continue to reduce the effectiveness of the regulation and supervision of crypto-asset service providers, including in France. Furthermore, MCIs can operate from tax havens, adopt an opaque capital structure and be spread across several jurisdictions. This calls for stronger needs for cross-border cooperation and information sharing to ensure regulatory, supervisory, and enforcement actions are effective. The AMF and the ACPR pursue cross-border cooperation by using the IOSCO MMoU and other arrangements. However, given the inconsistency and lack of progress of certain jurisdictions in regulating crypto-asset activities, as well as the dependence on the willingness of those jurisdictions to cooperate and share the information, this will remain a key challenge going forward.

- **Recommendation 3:** The authorities should continue to promote and strengthen cross-border cooperation and information sharing in regulating and supervising crypto-asset activities originated offshore and involving French firms/residents.

## Annex 1: France's implementation of G20 reforms (as of September 2024)

This table presents the status of implementation of G20 financial regulatory reforms, drawing on information from various sources. The tables below distinguish between priority areas that undergo more intensive monitoring and detailed reporting via progress reports and peer reviews, and other areas of reform whose monitoring is based on annual survey responses by FSB member jurisdictions. See [here](#) for further information.

### IMPLEMENTATION STATUS OF REFORMS IN PRIORITY AREAS

| Reform Area                             | BASEL III   |                       |                           |                |                                 | COMPENSATION | OVER-THE-COUNTER (OTC) DERIVATIVES |                  |                  |             | RESOLUTION                       |  |   |   |                                   | NON-BANK FINANCIAL INTERMEDIATION |                |   |
|---|---|-----------------------|---------------------------|----------------|---------------------------------|--------------|------------------------------------|------------------|------------------|-------------|----------------------------------|--|---|---|-----------------------------------|-----------------------------------|----------------|---|
|   | Risk-based capital  | Requirements for SIBs | Large exposures framework | Leverage ratio | Net Stable Funding Ratio (NSFR) |              | Trade reporting                    | Central clearing | Platform trading | Margin      | Minimum external TLAC for G-SIBs | Transfer / bail-in / temporary stay powers for banks | Recovery and resolution planning for systemic banks | Transfer / bridge / run-off powers for insurers | Resolution planning for S1>1 CCPs | Money market funds (MMFs)         | Securitisation | Securities financing transactions (SFT) |
| <i>Agreed phase-in (completed) date</i> | 2023  | 2016 (2019)           | 2019                      | 2023           | 2018                            |              | end-2012                           | end-2012         | end-2012         | 2016 (2022) | 2019/2025 (2022/2028)            |  |   |   |                                   |                                   |                | 2017/2023                               |
| Status                                  |   | C                     | LC                        |                | LC                              |              |                                    |                  |                  |             |                                  |  |   |   |                                   |                                   |                |   |
| Legend                                  | ■ Final rule or framework implemented. ■ Final rule published but not implemented, draft regulation published or framework being implemented. ■ Draft regulation not published or no framework in place (dark red colour indicates that deadline has lapsed). ■ Requirements reported as non-applicable. Basel III: C=Compliant, LC=Largely compliant, MNC=Materially non-compliant, NC=Non-compliant. Compensation: B,I=Principles and Standards deemed applicable only for banks (B) and/or insurers (I). OTC derivatives: R/F=Further action required to remove barriers to full trade reporting (R) or to access trade repository data by foreign authority (F). Non-bank financial intermediation: */**=Implementation is more advanced in one or more/all elements of at least one reform area (money market funds), or in one or more / all sectors of the market (securitisation). <a href="#">Further information on the legend.</a> |                       |                           |                |                                 |              |                                    |                  |                  |             |                                  |  |   |   |                                   |                                   |                |   |
| Notes                                   | CCPs=Central counterparties. G-SIBs=Global Systemically Important Banks. TLAC=Total Loss-Absorbing Capacity. S1>1=Systemically important in more than one jurisdiction.   |                       |                           |                |                                 |              |                                    |                  |                  |             |                                  |  |   |   |                                   |                                   |                |   |
| Source                                  | FSB, <a href="#">Promoting Global Financial Stability: 2024 FSB Annual Report</a> , November 2024.  |                       |                           |                |                                 |              |                                    |                  |                  |             |                                  |  |   |   |                                   |                                   |                |   |

### IMPLEMENTATION STATUS OF REFORMS IN OTHER AREAS

| Reform area       | Hedge funds   |  |   | Securitisation  |  |  | Supervision   |   |  |   |   | Macroprudential frameworks and tools  |  |
|-------------------|---|--|---|---|--|--|---|---|--|---|---|---|--|
|                   | Registration, appropriate disclosures and oversight of hedge funds  | Establishment of international information sharing framework | Enhancing counterparty risk management                      | Strengthening of regulatory and capital framework for monolines   | Strengthening supervisory requirements or best practices for investment in structured products | Enhanced disclosure of securitised products      | Consistent, consolidated supervision and regulation of SIFs | Establishing supervisory colleges and conducting risk assessments | Supervisory exchange of information and coordination | Strengthening resources and effective supervision | Establishing regulatory framework for macroprudential oversight | Enhancing system-wide monitoring and the use of macroprudential instruments |  |
| Status            | REF*  | REF  | REF*  | REF*  | REF  | REF  | REF   | REF*  | REF  | REF   | REF   | REF   |  |
| Reform area       | Credit rating agencies  |  | Accounting standards  | Risk management   |  | Deposit insurance                                | Integrity and efficiency of financial markets               |   | Financial consumer protection                        |   |   |   |  |
|                   | Enhancing regulation and supervision of CRAs  | Reducing the reliance on ratings                             | Consistent application of high-quality accounting standards | Enhancing guidance to strengthen banks' risk management practices | Enhanced risk disclosures by financial institutions  |  | Enhancing market integrity and efficiency                   | Regulation and supervision of commodity markets                   |  |   |   |   |  |
| Status            | REF*  | REF  | REF   | REF   | REF  | REF  | REF   | REF   | REF  |   |   |   |  |
| Legend            | REF=Implementation reported as completed. IOG=Implementation reported as ongoing. ABN=Applicable but no action envisaged at the moment. N/A=Not applicable. *=collected in previous year(s) for all members.  |  |   |   |  |  |   |   |  |   |   |   |  |
| Notes             | The FSB has not undertaken an evaluation of survey responses to verify the status or assess the effectiveness of implementation. In a number of cases, the complexity of the reforms and the summarised nature of the responses does not allow for straightforward comparisons across jurisdictions or reform areas. In particular, reforms whose status in a particular area is reported as complete should not be interpreted to mean that no further policy steps (or follow-up supervisory work) are anticipated in that area. CRA = Credit Rating Agency, SIFI = Systemically important financial institution. |  |   |   |  |  |   |   |  |   |   |   |  |
| Source            | FSB, <a href="#">Jurisdictions' Responses to the IMN Survey</a> .   |  |   |   |  |  |   |   |  |   |   |   |  |
| Other information | Latest IMF-World Bank FSAP: <a href="#">Jul 2019</a>  |  |   | Latest FSB Country Peer Review: <a href="#">2017</a>              |  | Home jurisdiction of G-SIBs: <a href="#">yes</a> |   | Signatory of IOSCO MMoU: <a href="#">yes</a>                      |  | Signatory of IAIS MMoU: <a href="#">yes</a>       |   |   |  |

The following table presents the steps taken to date and actions planned by the French authorities in core reform areas (not covered in this peer review) where implementation has not yet been completed. The actions mentioned below have not been examined as part of the peer review and are presented solely for purposes of transparency and completeness.

| Reform area                              | Steps taken to date and actions planned (including timeframes)  |
|--|---|
| <b>Final Basel III framework</b>         |   |
| Risk-based capital                       | Final EU rule published in June 2024, with 1 January 2025 as application date.  |
| <b>Non-Bank Financial Intermediation</b> |   |
| Securities financing transactions        | <p><i>Minimum standards for cash collateral re-investment:</i> For EU jurisdictions, the minimum standards are in effect but only apply to some relevant non-bank entities (UCITS management companies that engage in securities lending).<sup>59</sup> In addition, money market funds are not allowed to enter into securities lending or borrowing agreements.<sup>60</sup></p> <p><i>Numerical haircut floors on bank-to-non-bank transactions:</i> In the EU, in October 2021 the EC published a legislative proposal for the implementation of the finalised Basel III framework published in December 2017, including minimum haircut floors for SFTs on bank-to-non-bank transactions.<sup>61</sup></p> <p>Following the recommendations of the EBA in its report on the implementation of the minimum haircut floors framework for SFTs in EU law,<sup>62</sup> the EC proposed to postpone the introduction of the minimum haircut floors framework until the EBA and ESMA jointly report to the EC on the appropriateness of the two implementation approaches recommended by the FSB to implement this framework. The EBA has expressed concern that the application of that framework could create undesirable consequences for certain types of SFTs; in addition, it noted that it is not yet clear whether it would be more appropriate to apply the framework through higher capital requirements for banks for non-compliant transactions or through a market regulation imposing minimum haircut floors.</p> |

<sup>59</sup> ESMA (2014), *Guidelines for competent authorities and UCITS management companies: Guidelines on ETFs and other UCITS issues*, August. ESMA supplemented these Guidelines with a review of NCAs to check their compliant application and supervision of the Guidelines. See ESMA (2018), *Peer review on the Guidelines on ETFs and other UCITS issues*, July.

<sup>60</sup> See [here](#).

<sup>61</sup> See EC (2021) *Banking Package 2021: new EU rules to strengthen banks' resilience and better prepare for the future*, October.

<sup>62</sup> EBA (2019), *Policy Advice on the Basel III Reforms on Securities Financing Transactions (SFTs)*, August.

## Annex 2: Key requirements of the enhanced registration regime

The enhancements are mainly reflected in requirements in the following areas:

1. An adequate security and internal control system;
2. A system for managing conflicts of interest;
3. A resilient and secure IT system;
4. Communicating clear, accurate and non-misleading information to their customers;
5. Publishing pricing policy; and
6. Implementing a complaints management policy.

The specific enhanced requirements on robust governance include:

1. Having at least two effective directors responsible for ensuring that the DASP is compliant with its legal and regulatory obligations, and periodically review the performance of the systems and controls designed to address the regulatory requirements that the DASP has to comply with;
2. Having sufficient and appropriate resources (including personnel) in consideration of the services that the DASP provides; and
3. Establishing, implementing and maintaining operationally appropriate internal control mechanisms and procedures to ensure that it complies with its legal and regulatory obligations.

It also introduced targeted requirements regarding conflicts of interests mainly associated with custody services, including:

1. Establishing a custody policy;
2. Ensuring that the necessary resources are in place for the prompt return of digital assets held on behalf of their customers;
3. Segregating holdings on behalf of their customers;
4. Refraining from using digital assets held on behalf of their customers.