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## Disclaimer

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The materials contained in this publication were assembled in August 2012 and were based on the law enforceable and information available at that time.
France is the largest country of the European Union. Its economy is well developed and, as such, France is also one of the main host countries chosen for direct foreign investments in the world (especially as it is the largest country in the EU). France provides a business-friendly environment with strong public facilities and a legal framework in line with European standards.

The document below aims to provide the key elements pertaining to the French business environment.

In that respect, the key points an investor has to bear in mind when considering a French investment are the following:

- The main French business sectors are electronics, transportation, tourism, textiles, food processing and chemicals.
- Setting up a French company can be done quickly and easily. All formalities can be dealt with in a single place: the Business Formality Centre (the BFC).
- The French legal framework provides for efficient IP protection regimes as well as specific tax incentives for the creation/holding/disposal of IP/IT rights.
- Corporations resident in France are subject to Corporate Income Tax at a 34.43% rate. Foreign companies are also subject to a limited tax liability on their French source income.
- Although France has a lot of favourable tax regimes applicable to companies belonging to the same group, it also has transfer pricing rules that follow OECD principles.
- French tax resident individuals are subject to personal income tax on their worldwide income at a progressive rate going up to 41%.
- Accounting statements should be made in compliance with French GAAP, although public companies are required to publish IFRS accounts annually.
- The hiring of any employee must be declared to the local Social Security Authorities within an 8-day period preceding the start of the employment. Payments of salaries are subject to social contributions that vary depending on the amount of the salary paid and the nature of the employee’s job. In addition, the French legal framework is protective of employees, as an employee can only be dismissed in very specific circumstances and after the completion of a regulated process.
- Certain acquisitions, mergers and creations of joint ventures might require a notification to the French Competition Authority. Anticompetitive practices such as concerted practices and abuses of a dominant position are punishable offences.
- Foreign investors are free to open bank accounts and apply for loans in France. In that respect, generally speaking, no withholding tax applies to French source interest paid to non-French tax residents.
Foreword

France is, and will remain for the next decades, one of the top 10 countries in the world in terms of GDP. It is also a leading country in terms of international trade, with Europe still the major partner (circa 60% of trade) but emerging economies representing a fast increasing share.

HSBC France is a priority market for HSBC Group, one of the world’s leading financial institutions, and the first international bank on the French market. Based on a universal banking model, it offers a comprehensive range of services aimed at a corporate, business and retail clientele wishing to benefit from the robustness, the infrastructure and network of the HSBC Group.

HSBC France strategy, in line with the Group’s, aims at leveraging on its unique positions on the French market, and accelerating its growth while improving its overall efficiency. It focuses on wealth management for personal customers; it bolsters international connectivity needs for corporate and business customers; it strengthens its position as a strategic hub for investment services and market activities.

Our commercial banking activities offer an extensive range of domestic and international products and services providing daily support to businesses ranging from very small enterprises to multinationals, through a domestic network specialised by type and size of business. This network comprises 10 Corporate Banking Centres, 51 ‘Centres d’Affaires Entreprises’ dedicated to SMEs, 15 ‘Pôles Entrepreneurs’ dedicated to very small enterprises (VSEs) and direct banking services with dedicated customer managers, longer branch opening hours and attractive banking packages for small business clients or associations.

Commercial Banking is closely connected to other businesses which efficiently allows for entrepreneurs to have a dual relationship. On one hand there are the Retail and Private banks for personal banking, and on the other is Investments & Markets to meet corporate requirements. Both of these offerings are furthered through our international network and local commercial presence in 65 countries.

Commercial Banking strategy in France aims at continuing to strengthen our international capabilities by increasing the number of customer managers with an international focus, strengthening payments and cash management, enhancing trade services teams dedicated to international.

In France, as in the rest of Europe, the economic climate became steadily unstable in 2011. During the first quarter, in line with the end of 2010, there were encouraging signs of an economic upturn (improvement in economic growth, rise in the stock markets) but as of the second quarter, the economic climate was affected by concerns over the sovereign debt situation in the southern Euro zone countries.

In this environment, our Bank benefits from strong capital and liquidity positions, a disciplined risk control, robust commercial positions across all its businesses, and a clear strategy that delivers results and paves the way for profitable growth.

Jean Beunardeau
CEO
HSBC France
Doing business in France

**Economic environment**

France is considered to have a well-developed economy and has one of the highest HDI (Human Development Index) in the world. Its history, its culture and the diversity of its landscapes attract over 75 million tourists per year. The tourist sector is, as a consequence, an important source of profit for France.

The French economy is based both on a strong private sector and on a national economy. Since the mid-eighties, public policies have tended to transform the nation’s economy from a state-dominated structure to a privately-owned one.

**Why it is a good place to do business?**

France is the world’s fifth largest economy. Its Gross Domestic Product (GDP) is over €2 trillion and the WTO (World Trade Organization) reports that in 2010 France was the sixth largest exporter of goods as well as the sixth largest importer of goods. It has substantial agricultural resources, a large industrial base, and a highly skilled work force. A dynamic services sector accounts for an increasingly large share of economic activity and is responsible for nearly all job creation in recent years. According to the French Office for National Statistics (INSEE), 2011 showed a global increase of 1.7% of the French economy, up from 1.5% in 2010. The first quarter of 2012 showed a stable GDP (0.0% in volume), following a small increase of 0.1% during the last quarter of 2011.

The European Commission, the OECD and the International Monetary Fund have forecast GDP growth for 2012, between 0.2% and 0.5%.

**Main business sectors**

France has been very successful in developing dynamic telecommunications, aerospace, and weapons sectors. With virtually no domestic oil production, France has relied heavily on the development of nuclear power, which now accounts for about 80% of the country’s electricity production.

The main industry players operate in the following areas: aircraft, electronics, transportation, textiles, clothing, food-processing, chemicals, machinery and steel.

The principal service areas in France are services to companies and individuals, financial and real estate services, tourism and transportation.

**Language**

French is the official language in France.

**Ease of doing business in the territory**

The Ease of Doing Business Index is an index created by the World Bank. Higher rankings indicate better, usually simpler, regulations for businesses and stronger protections of property rights.

France ranks 29 in this index for 2012, compared to 26 for 2011 and 31st for both 2009 and 2008.

**IP protection regime**

French law provides for trademark protection of IP, including words, names, letters, numerals, labels, designs, sounds and musical phrases. Legal protection is available when the IP is not already protected by a trademark, a copyright or used by a third party, for instance as a company/trade name or as a domain name.

Investments in protected sectors (such as gambling, weapons, cryptology etc.) require obtaining a prior authorisation from the French Ministry of Finance. Non-EU investors are required to seek prior authorisation from the Ministry of Finance in other specific cases (such as the acquisition of a controlling stake in a company having its registered office in France), with the Ministry of Finance having two months to respond to the request, the authorisation being deemed to have been granted if no response is made within this time period.

**Trade relations and regulatory requirements**

There are no administrative restrictions on foreign investment in France, although mandatory declarations or permits are required in some cases.

Whatever your business development strategy is, you will find in France an appropriate legal structure for the kind of business you wish to set up. Investors can set up a permanent or temporary structure and enjoy full legal peace of mind; they are then free to drive their project forward in a simple and inexpensive environment.

Upon completion of the investment, foreign investors are only required to submit:

- a notification to the French Tax Authorities (the FTA) i.e. the Direction du Trésor in certain cases; and
- a statistical declaration for transactions exceeding a threshold of €15 million.

Despite the formality of French business culture, it is not uncommon practice to stray from the agenda during meetings. Initial meetings are often dedicated to information sharing and discussion, rather than reaching final decisions.

Do not be put off by frequent differences in opinion and rigorous debate during business negotiations. The French will appreciate your ability to defend your position.

Lunch is one of the best places to forge business relationships in France, but business lunches are not as common as they used to be. If invited to one, it is always polite to accept.

Do try to learn a few basic French phrases and use them whenever possible. Your efforts will not go unnoticed.

**Business Etiquette**

In French business culture it is customary to only use first names when invited to do so. Sometimes the French will introduce themselves by saying their surname first, followed by their Christian name.

A business meeting should begin and end with a brisk handshake accompanied by an appropriate greeting and the exchanging of business cards.

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Conducting business in France

Forms of business

Choosing a business structure in France depends on the investor’s strategy and the degree of independence that the French operations need to have from the parent company.

Reducing administrative procedures

A foreign company that wishes to prospect for business in France can do so by opening a liaison office. This option involves a specific tax and company status.

Liaison offices: representation without commercial activity

A foreign company may recruit or send an employee to France to represent it through a local liaison or representative office. Liaison offices can only conduct a very limited type of non-commercial operations, such as prospecting, advertising, providing information, storing merchandise, or other operations of a preparatory or auxiliary nature, and cannot operate a commercial activity. A liaison office is not a separate legal entity. Invoices must be issued by the foreign company, which must also directly sign any contracts with French customers, as the liaison office must refrain from entering into commercial agreements with third parties.

If you wish to develop a commercial activity: sales agents

Foreign companies may use the services of a French sales agent for the marketing of their products and/or services on the French market. The sales agent would normally act in their own name and on their behalf as intermediary between the foreign companies and the French market.

Agents are responsible for negotiating and may also be empowered to sign contracts for sales, purchases, leases and for the provision of services in the name and on behalf of their principals (i.e. not in their own and behalf). They may work for one or more companies, and in most cases are responsible for a defined geographical area and/or sector of activity. They are paid in part or in full by commission on completed transactions.

Since sales agents are external suppliers and not salaried employees, specific rules apply when agreements with them are terminated. Except in cases of professional misconduct, the agent is entitled to compensation based on commissions received (in principle, this will be the equivalent of two years of the same).

Small companies often prefer to use sales agents as a flexible and inexpensive means of introducing their products to foreign markets, rather than establishing a French based activity, such as a branch or a subsidiary.

Companies can set up a branch or a subsidiary to conduct manufacturing or sales operations in France through a permanent principal or secondary establishment.

A branch

Branches enable foreign companies to establish a physical presence in France for a commercial activity. The branch may carry out all the operations implemented by the foreign company, as it is the foreign company itself that is registered in France with the trade registry where its branch is located. Indeed, a branch is not a legal entity separated from the foreign company that established it.

Foreign companies may wish to limit the powers of the French branch representative; however, it is important to note that such limitation of powers cannot be imposed on third parties, in general. The branch representative is empowered to represent the foreign company vis-à-vis third parties and is deemed to be empowered to act in the name and on behalf of the foreign company for all operations carried out through the branch. Branches are permanent establishments with regard to tax laws and must pay corporate tax and VAT. The subsequent conversion of a branch into a separate incorporated subsidiary is possible, but must comply with rules governing the sale and transfer of business, and is subject to taxation under certain conditions, those operations can benefit from a deferred tax regime.

A subsidiary

Creating a subsidiary company incorporated under French law, offers certain advantages:

- segregation of subsidiaries’ assets from the parent company’s assets – this concept means that foreign companies do not bear unlimited liability for the debts of their French structures. On the other hand, subsidiaries’ losses cannot be offset against the parent company’s profits;
- subsidiaries may apply for government support when starting up or expanding;
- subsidiaries can enter into agreements on sales and technical assistance with the foreign parent company and may pay or receive royalties, commissions, management fees, etc.

The subsidiary becomes a separate legal entity as from the date when it is registered with the trade registry (Registre du Commerce et des Sociétés – RCS) as stated on its certificate of incorporation. The founders are personally liable for legal commitments entered into during the incorporation phase (such as hiring personnel, signing a lease agreement, signing utilities agreements, etc.), and these may be further taken over by the newly incorporated company subject to specific legal conditions being complied with.

Timeframe for setting up your business in France

The timeframe required to set up a company in France has been simplified over recent years, and occurs shortly after the date when the file, containing all required documents, is ready for filing.

A one-stop shop: Business Formality Centre (the BFC)

All the formalities for setting up a new company can be dealt with in a single place: Business Formality Centre (the BFC). The BFC handles all the documents required to set up, change or close down companies and the BFC delivers them to the relevant authorities, including:
### Choice of legal structures

Choosing a legal structure will affect the company's legal status, tax position, assets and employment relations.

### Limited liability companies

Limited liability companies are the most common structure in France. The financial liability of their shareholders is limited to the amount of their contribution.

The rules governing companies have become much more flexible, with the introduction of simplified stock companies ('SAS'), which have greater freedom to draft their articles of association with respect to internal organisation and decision-making process.

The elimination of the minimum capital requirement for SARLs and SASs has also resulted in greater flexibility.

By the same token, French company law has kept in step with modern technology: board of directors' meetings and supervisory boards may now be held remotely (by videoconference or other means) except as otherwise provided for in the company's articles of association or where annual or consolidated financial statements and management reports are to be approved.

### The three main types of limited liability companies

The most popular company forms are the société anonyme (SA), the société à responsabilité limitée (SARL) and the société par actions simplifiée (SAS).

SASs and SARLs can be formed with a single partner (named ‘SAS Unipersonnelle’) (SASU) or single-shareholder limited liability company (EURL), whereas seven partners are required for an SA. The SA is the most sophisticated type of French company and is able to launch a public offering (whereas SASs and SARLs cannot).

The SAS or SASU is the most recent form of French company and is well suited to holding companies and foreign companies wishing to maintain 100% control over their French subsidiaries, with sufficient flexibility to comply with investors' objectives in terms of internal organisation, control over the transfer of the SAS shares, etc.

The main characteristics of these three types of legal forms are summarised in the template opposite.

### Intellectual property rights

French industrial property laws provide effective protection for patents, trademarks, models and designs. The competent French administration, named ‘INPI’, is the core of the French protection system, and filings with it are the starting point for patent and trademark protection. Industrial property rights entitle patent holders to a monopoly on use for 20 years. Trademarks are valid for 10 years and can be renewed indefinitely. Models and designs are protected for 25 years.

Company names, trade names and logos are also protected and can be cited in unfair competition lawsuits.

### Shares capital

<table>
<thead>
<tr>
<th>Société à responsabilité limitée (SARL)</th>
<th>Société anonyme (SA) with a board of directors</th>
<th>Société par actions simplifiée (SAS)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Key advantages</strong></td>
<td>Structured for 'monitored delegation'. More and more fitted for listed companies or for shareholders that do wish to benefit from a legal form whose rules are strictly fixed by the commercial code.</td>
<td>Convenient for subsidiaries in a group of companies and for joint ventures, as it allows the shareholder(s) to freely determine the nature, power and functioning of the corporate bodies as well as their decision-making process, with minimal constraints.</td>
</tr>
<tr>
<td><strong>Number of shareholders</strong></td>
<td>1 or more individuals or legal entities. A EURL (i.e. a SARL with a sole shareholder, individual or legal entity) may not be the sole shareholder of another EURL.</td>
<td>7 shareholders at least. 1 shareholder at least.</td>
</tr>
<tr>
<td><strong>Statutory auditors</strong></td>
<td>1 office holder and 1 deputy holder are required only if 2 of the following 3 criteria are exceeded: - turnover (excl. tax): €311,000,000; - total of the balance sheet: €1,550,000, - average number of employees: 50.</td>
<td>Statutory auditors must always be appointed. Term of office: 6 financial years. SAS which controls one or more entities or which is controlled by another entity must appoint statutory auditors. Term of office: 6 financial years. SAS which does not control one or more entities or which is not controlled by another entity must have 1 office holder and 1 deputy holder only if 2 of the following 3 criteria are met: - turnover (excl. tax): €2,000,000; - total of the balance sheet: €1,000,000; - average number of employees: 20.</td>
</tr>
<tr>
<td><strong>Share capital</strong></td>
<td>€1 minimum. At least 20% to be paid up on subscription for contributions made in cash, and the balance within 5 years. No public issue of shares allowed.</td>
<td>€37,000 minimum. At least 50% to be paid up on subscription for contributions made in cash, and the balance within 5 years. Public issue of shares allowed. Contribution in kind is possible. Contribution in kind is possible.</td>
</tr>
<tr>
<td><strong>Société à responsabilité limitée (SARL)</strong></td>
<td><strong>Société anonyme (SA) with a board of directors</strong></td>
<td><strong>Société par actions simplifiée (SAS)</strong></td>
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<tr>
<td>--------------------------------------------</td>
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</tr>
<tr>
<td><strong>Liability of shareholders</strong></td>
<td>Limited to contributions.</td>
<td>Same as SARL.</td>
</tr>
<tr>
<td><strong>Incorporation</strong></td>
<td>Signature of articles of association and registration with the trade registry.</td>
<td>Same as SARL.</td>
</tr>
<tr>
<td><strong>Management body(ies)</strong></td>
<td>One or more individual(s) may be appointed as managing directors (gérant). A gérant is not necessarily a shareholder of the SARL.</td>
<td>Same as SARL.</td>
</tr>
<tr>
<td></td>
<td>Appointment conditions and powers are fixed by the commercial code.</td>
<td>Same as SARL.</td>
</tr>
<tr>
<td></td>
<td>The CEO (directeur général), the deputy CEOs (directeurs généraux délégués – 5 maximum) and the Chairman of the board are necessarily individuals. The Chairman of the board may be entrusted with the duties of CEO. Between 3-18 members of the board of directors, which may be individuals or legal entities. Appointment conditions and powers are fixed by the commercial code.</td>
<td>Same as SARL.</td>
</tr>
<tr>
<td></td>
<td>The nature, power and decision-making process of management bodies is freely fixed by the articles of association. The SAS must have at least a Chairman (président), who is entitled to validly commit the company vis-à-vis third parties. The Chairman may be an individual or a legal entity.</td>
<td>Same as SARL.</td>
</tr>
<tr>
<td><strong>Foreign individuals not being EEA nationals</strong></td>
<td>Any managing director (for SARL) CEO or deputy CEO (for SA and SAS) or Chairman (for SAS) who is not a national from the EEA must obtain a specific authorisation or implement specific formalities. The same is applicable to the permanent representative of a Chairman being a legal entity.</td>
<td>Same as SARL.</td>
</tr>
<tr>
<td><strong>Limit on the number of corporate office positions held in French companies by members of the management body(ies)</strong></td>
<td>Not applicable.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td></td>
<td>2 mandates as CEOs and 5 as members of the board.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td><strong>Convening of shareholders’ meetings</strong></td>
<td>Notice systematically issued by registered letter. Convening period: 15 days minimum.</td>
<td>Freely fixed by the articles of association.</td>
</tr>
<tr>
<td></td>
<td>Notice issued by letter. Convening period: 15 days minimum.</td>
<td>Freely fixed by the articles of association.</td>
</tr>
<tr>
<td><strong>Shareholders’ collective decisions</strong></td>
<td>The commercial code sets out specific quorum / majority rules for certain decisions, and occasionally allows that more stringent rules be fixed in the articles of association. Shareholders’ decision may be made by written consultation except for approval of the financial statements which must be decided at a shareholders’ meeting (compulsory physical meeting of the shareholders).</td>
<td>The commercial code sets out specific quorum / majority rules for certain decisions, and occasionally allows that more stringent rules may be fixed in the articles of association. Shareholders’ decision is made at either ordinary (OGM) or extraordinary general meetings (EGM) of shareholders. EGMs mainly state on the amendment of the SA articles of association, whereas OGM state on all other issues that are of the competence of the shareholders (e.g. approval of yearly financial statements).</td>
</tr>
<tr>
<td><strong>Transfer of shares</strong></td>
<td>The transfer of shares is subject to the prior approval of other shareholders, at a specific majority fixed by the commercial code (unless the articles of association provide for a more stringent majority). This approval may also be applicable to transfer of shares between shareholders, if the articles of association so provide.</td>
<td>In non-listed SAs, the articles of association may include a clause stating that the transfer of shares is subject to the approval of a corporate body. No specific majority is fixed by the commercial code for the approval of the envisaged transfer.</td>
</tr>
<tr>
<td></td>
<td>Freely fixed in the articles of association.</td>
<td>Freely fixed in the articles of association.</td>
</tr>
<tr>
<td><strong>Yearly approval of financial statements and accounts disclosure</strong></td>
<td>Financial statements must be established and approved within six months after the financial year end. The filing of annual accounts along with the yearly statutory auditors’ report – if any – is compulsory.</td>
<td>Same as for SARL, being specified that the statutory auditors’ report is compulsory and must be filed.</td>
</tr>
<tr>
<td></td>
<td>Same as for SARL.</td>
<td>Same as for SARL.</td>
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Taxation in France

Corporation Income Tax (CIT)

Scope and Rates
The French Corporate Income Tax (herein after the ‘CIT’) is, as a matter of principle, payable by any company operating within the French territory. However, based on the territoriality principle, French corporations are not taxed on their foreign source income. Accordingly, French corporations are not taxed on their foreign permanent establishment (PE) income. Under French tax law, the PE concept refers to a fixed place of business, a business agent or the operation of a full production cycle.

CIT Rates
The CIT tax rate is currently at 33.33%. As of 1 January 2010, a 3.3% additional contribution (Cotisation Sociale sur les Bénéfices so called CSB) is payable by any companies whose income tax liability exceeds €763,000. As a consequence, companies with taxable profits exceeding €2,289,000 are taxed at 34.43%. Article 30 of the fourth amended Finance Bill for 2011 introduced a new CIT surcharge of 5%. This tax is applicable to companies that have a turnover higher than 250 million Euros. This temporary tax is applicable to fiscal years ending on or after 31 December 2011 and will be in place until 30 December 2013.

CIT Basis
Except as otherwise provided under French tax law, the taxable result is based on the accounting result. Therefore taxable income of a company is computed based on its accounting result and adjusted by taking into account additional income not taken into account in the computation of accounting result, non-taxable income, non-deductible expenses, allowable provisions and expenses carried forward.

Dividend taxation
Dividends are in principle subject to CIT at the standard rate. Companies receiving eligible dividends may however benefit from the so called ‘parent and subsidiary’ exemption regime. This regime may apply where the parent company owns 5% or more of the distributing company’s share capital for more than two years (or undertakes to keep its shares for more than two years) regardless of its residence country.

Where applicable, the parent and subsidiary regime enables the French tax resident corporation receiving the dividend payment to benefit from a 95% exemption of the gross dividend received.

Capital Gain taxation
Capital gains are likewise included in the CIT basis. However, specific provisions are applicable for long-term capital gains. Capital gains are those realised on certain assets sold after a two-year holding period. The long-term regime provides for a reduced rate of taxation for certain eligible shares and for income/gain derived from IT rights held for more than 2 years.
- gains earned on quoted real estate companies benefit from a 19% taxation rate;
- income derived from the licensing or the sale of certain IP rights (patents and patentable rights) benefit from a 15% taxation rate; and
- the participation exemption regime is applicable to the so-called ‘titres de participation’ held by a French tax resident for at least two years. In substance, a company that holds at least 5% of the share capital of a subsidiary for at least two years benefits from a 90% exemption on the gain thus realised. The effective rate of taxation would therefore be reduced to 3.44%.

Deductions
Deductible expenses are those incurred in the course and for the purpose of the company’s business, e.g. depreciations and amortizations of the production equipments, provisions, rents for buildings and equipments, royalties paid for licensing of patents, salaries, social security contributions etc. Conversely, expenses which are not incurred in the taxpayer’s interest cannot be deductible, i.e. a company might not be entitled to deduct a subsidy paid to a related company if it does not have any interest (commercial/financial) to do so.
Certain expenses cannot be deducted, such as ‘sumptuary’ expenses, which broadly speaking are expenses which are not required for the purpose of the company’s activity, i.e. hunting and yachting expenses. As a result, whilst no general prohibition exists as to the deduction of fees paid to related parties (abroad or not) it is nevertheless required that fees paid to related parties be determined under arm’s length conditions.

Use of losses

Losses can be carried forward except in the case of a change of the company’s business (the change of control of the company does not itself jeopardise the carrying forward of the tax losses). Losses are available to carry forward within the limit of 1 million Euros of taxable profit plus 50% of taxable profits in excess of this. Losses can also be carried back to the fiscal year immediately preceding that in which the losses arise and up to a maximum of 1 million Euros. As a result, the carry back receivable may either be used in order to pay taxes (CIT, VAT) or be reimbursed after a five-year period.

Tax Consolidation regime

This regime allows companies liable for CIT to create a tax consolidated group. Under the tax consolidation regime the legal entities’ taxable results can be offset against each other. The relevant taxpayer is the parent company. In order to consolidate the taxable results of its subsidiaries, a parent company must own directly or indirectly 95% of each subsidiary to be included in the tax group. This parent company must not be owned by more than 85% by another French company subject to CIT. All companies in the group must have the same financial year.

Thin capitalisation rules

Under certain conditions, the deduction of interest could be limited if the borrower and the lender are related parties.

Interest rate limitation

First, the deduction of interest is capped at a statutory rate determined by reference to the annual average rate applied by credit institutions for variable interest rate loans. This rate is regularly published by the FTA. For the accounting year ending on 31 December 2011, the maximum rate was 3.99%.

Debt to equity ratios

In addition, the amount of deductible interest determined after application of the interest rate limitation, could also be capped if the interest payments exceed the following three tests:

- a 1.5:1 debt to equity ratio of the paying company;
- 25% of the paying company’s adjusted operating profits (before tax); and
- the amount of interest received from other related parties.

Those tests are computed slightly differently within a tax consolidated group.

Loans granted by third parties

In the specific case where the repayment of a loan granted by a third party (including banks) is guaranteed by a related party or by a third party whose commitment is itself secured by a related party, then the proportion of interest that is payable on that part of the loan that is secured in this way is potentially subject to thin capitalisation rules.

Taxation of permanent establishments

French permanent establishments of foreign companies are taxed on their French source income. Branch’s profits may, subject to applicable Double Tax Treaty (hereinafter the ‘DTT’) or other non-discrimination agreements, be subject to a 30% withholding tax. From a practical standpoint however, the branch tax is very rarely levied.

Transfer pricing rules

Transfer pricing rules apply to payments made between related parties. In substance, the French transfer pricing policy follows the OECD recommendations. Since 1 January 2010, transfer pricing documentation requirements have been enacted. A specific set of documents is required from French companies with a gross annual turnover or gross assets exceeding €400 million, French subsidiaries owned more than 50% by French or foreign entities meeting the €400 million criteria, French parent companies that directly or indirectly own 52% or more of companies meeting the €400 million criteria and French tax consolidated group (with at least one tax consolidated entity meeting the €400 million criteria within the perimeter).

Transfer pricing documentation includes general information about the group and its subsidiaries and detailed information of the transfer pricing policy set up within the French audited entity. This documentation must be kept up to date. This documentation should, amongst other things, provide satisfactory justifications for the choice of the transfer pricing methods used and their arm’s length nature.

Withholding tax rates

Those withholding tax rates do not take into account the wide French DTT network (around 108 DTT have been signed). In that respect, most treaties provide for a reduced withholding rate of between 0% and 15%. Those rates also do not take into account either

- the company did not benefit from the tax credit, provided, in both cases, that the concerned company is not affiliated with another company which benefited from the R&D tax credit within the same time period.

Operating costs are taken into account by retaining 50% of the research and development staff costs plus 75% of the depreciation on the assets allocated to the research. Also, spending on outsourcing to private research organisations is included in the limit of three times the total amount of other research expenses qualifying for the tax credit and cannot exceed 10 million Euros if the private research organisation is not a related party (limited to 2 million Euros in the contrary case).

A company can use its tax credit to pay its CIT or may claim a refund of the tax credit three years after the expiration of a period of five years.

Income | Rate Applied
--- | ---
Branch’s profit | 30% 
Dividend | 30% 
Royalties | 33.33%

1 Non-cooperative countries are those mentioned on a list issued by the Ministry of Foreign Affairs which is revised annually. For tax year 2012, includes Guatemala, Niue, Brunei, Marshall Islands, Philippines, Montserrat, Nauru and Botswana.
CIT Tax Administration

Companies are free to have a fiscal year different from the calendar year. Companies subject to French CIT have to file a CIT return each year, indicating their income as well as the tax adjustments needed. The CIT return includes extracts of the company’s assets and liabilities as well as a P&L statement.

The taxable result must be declared three months after the end of the considered financial year and four instalments are payable during the financial year (15th of March, 15th of June, 15th of September and the 15th of December). The final CIT payment must be made by the 15th of the fourth month following the end of the fiscal year, i.e. the 15th of April for a company with a financial year which matches the calendar year.

Failure to comply with these requirements triggers a 10% to 40% penalty. Moreover, late payment interest of 0.40% per month may also apply.

Tax audits

The FTA are, as a matter of principle, allowed to audit tax returns, accounting books and supporting documents (such as depreciation tables, provision assessments, invoices) up to three years after the relevant accounting period. After a tax audit, the FTA may either request additional information or issue a tax reassessment notice that the taxpayer is entitled to challenge before the Court.

The FTA is allowed to examine a taxpayer’s personal situation up to three years retrospectively during a tax audit.

Personal Income Tax (PIT)

Who is the PIT taxpayer?

PIT is a general and progressive tax based on the tax household’s overall income. Broadly speaking, a tax household is: a single person, a couple (married or into a contract of civil union) or a family.

The tax burden of all individuals included in the tax household is globally determined. The household tax burden could be mitigated depending on the composition of the household (single, couple, children etc).

A tax borne by both residents and non-residents

PIT may potentially apply to non-French residents. Although French tax residents are taxed on their worldwide income, non-French residents are only taxed on their French source income, subject to the application of DTT.

The assessment of the taxable profit of each type of income is done by the application of a set of rules specific to each category of income, e.g. deduction of interest for the calculation of the commercial income is broadly allowed whereas such a deduction is allowed in a very narrow frame for the calculation of the real estate income. The determination of the net employment income is often limited to a 10% lump sum deducted from the overall wages received.

The PIT scope

As mentioned above the PIT scope is the overall income of the tax household. This general income is divided into seven categories depending on the nature of the income.

<table>
<thead>
<tr>
<th>Income Band</th>
<th>Income Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>From €0 to €5,963</td>
<td>0%</td>
</tr>
<tr>
<td>From €5,963 to €11,896</td>
<td>5.5%</td>
</tr>
<tr>
<td>From €11,896 to €26,420</td>
<td>14%</td>
</tr>
<tr>
<td>From €26,420 to €70,830</td>
<td>30%</td>
</tr>
<tr>
<td>Above €70,830</td>
<td>41%</td>
</tr>
</tbody>
</table>

Tax administration and declaration requirements

The taxable period is the calendar year. Both residents and non-residents need to file a tax return. Generally, the deadline for filing PIT return is the end of May.

Payments

PIT is generally paid in three instalments (March, June and September). On a voluntary basis, the payment can however be done by monthly instalments.

The PIT scope

The overall income of a taxpayer is subject to tax at a progressive rate which ranges from 5.5% to 41%.

IR’s Incentive schemes

Several systems of incentives exist. They grant tax credits or tax reductions based on some household expenses such as: investment in non-listed companies, childcare expenses at home, elderly care expenses, ecological acquisitions etc.

VAT

Value-added tax (VAT) is applicable in France as well as all over the European Union. The main rules are based on the 2006-112-EC directive.

VAT is a tax applicable to the consumption of goods and services. This tax is borne by the final consumer of goods and services. This tax is only collected by entities which conduct taxable activities. This tax is in principle, neutral for the companies subject to it as they can deduct from the amount of VAT collected on their sales, the amount of VAT they paid on operating expenses. However, in the financial sector, VAT could represent a significant tax charge if not properly monitored.

The difference between output and input VAT is either paid to the FTA or, if negative, entities the taxpayer to a tax credit that could be used to offset VAT payable or refunded.

Exports of goods outside the European Union are VAT exempt.

France’s standard VAT rate on sales of goods and services is 19.6% (increased to 21.2% starting from 1 October 2012). Reduced rates are applicable on food and certain agricultural products (5.5%), books, public transport, newspaper and magazines (7%).
### Audit and accountancy

#### Other taxes

The CET (Contribution Economique Territoriale): Local Business Tax

The CET has been established by the Finance Act for 2010. This act repealed the previous local business tax (Taxe Professionnelle). The CET is borne by any person that operates a business or a professional activity with turnover exceeding €152,500.

The CET consists of 2 elements: the CFE (Cotisation Foncière des Entreprises – Corporate Property Contribution) and the CVAE (Cotisation sur la Valeur Ajoutée des Entreprises – Contribution based on the value added produced).

The CFE

The CFE’s scope is the rental value of the company’s real estate assets. The rental value of industrial fixed assets is reduced by 30%. The CFE’s rates are decided by the local City Councils. A minimum of photovoltaic electricity, newly erected buildings, fixed assets used for the production of photovoltaic electricity, buildings located in specific locations (urban policies).

The CVAE

The CVAE is only payable by entities with an annual pre-tax turnover exceeding €500,000. The CVAE’s scope is the added value generated by the taxpayer’s business.

**Calculation of the Added Value**

The Added Value corresponds to the difference between:

- the turnover increased by some other items, such as incomes not included in the turnover and positive inventory changes, with the different expenses borne by the taxpayer.
- the turnover is reduced by the purchases of stored raw and other supplies, negative inventory changes, the taxes on the turnover and similar taxes, the depreciation.

**CVAE rate**

The CVAE rate is 1.5%. If the entity’s pre-tax turnover is lower than €50 million, those entities would be subject to a lower CVAE rate. The CET (both CFE and CVAE) is capped at 3% of the business’s added value.

The Local Property Tax (Taxe Foncière)

French taxpayers are also subject to a property tax on the rental value of land and buildings owned as of 1st of January of each year.

A tax based on the lands and properties’ rental value

This tax is based on the land registry rental value minus a standard 93% rebate for buildings or 20% rebate for land. The amount of tax paid is equal to this base multiplied by the rates voted by local authorities (cities, departments and regions).

The method used to determine the rental value of real estate fixed assets varies depending on their type:

- Industrial buildings’ rental value is always equal to 8% of the considered fixed asset’s value;
- Commercial or administrative premises’ rental value is determined either by reference to the rent (if the asset is rented under arm’s length conditions) or by comparison with the rental value of similar premises.

Some buildings are exempt from this local property tax, i.e. newly erected buildings, fixed assets used for the production of photovoltaic electricity, buildings located in specific locations (urban policies).

The Auditor’s appointment

The appointment of an auditor (Commissaire aux comptes) could be statutory or voluntary. The appointment of an auditor is compulsory in an SA and in a Société en commandite par actions (SCA). The appointment of an auditor is also compulsory in a Société en Nomm Collectif (SNC), a SARL, a SAS and a Groupement d’Intérêt Economiques (GIE) if one of the following criteria is met:

- the turnover produced by the activity is over €3,100,000;
- the total assets exceed €1,550,000;
- more than 50 workers are employed.

Who are the auditors?

The auditor can be any person (i.e. individual or company), but where the auditor chosen is a company, a responsible individual must be appointed. This individual signs all the reports and bears the responsibility for the activity. Both the auditor and his deputy are appointed at the same time.

The choice of the auditor is entirely up to the controlled entity. However, the auditor must be empowered to complete the work, i.e. he must have been enlisted by the company.

The appointment of auditors in public companies whose shares are traded on a regulated market is subject to the AMF (Regulated Market Control Authority) supervision. Auditors are chosen for six financial years. The appointment of an auditor is subject to specific disclosure formalities. The auditor’s term ends after the Annual General Meeting approving the sixth financial year’s accounts.

Requirement to maintain accounts and disclosure

All individuals and legal entities that carry out an economic activity are required to file accounts. The final accounts of the year under review (known as comptes de synthèses) must be filed at the Commercial court registry. Foreign companies which have branches in France are also required to file accounts. These accounts are publicly available as well as the auditor’s report and the minutes of the annual general assembly of members. Filing fees are between €45.65 and €96.66 (includes consolidated account registration).

Corporations and businesses with a turnover above €763,000 (selling activity) or above €230,000 (other activity) are bound to maintain full accounts. Other businesses bear less binding obligations. Broadly speaking, businesses must register chronologically all movements influencing their assets and liabilities. They must also provide annual inventory figures, a balance sheet, a P&L statement and an appendix detailing additional information and accounting methods used.

Accounting standards used

Public companies whose shares are traded on regulated markets have to publish their accounts using the IFRS GAAP. Conversely, published accounts must be registered in local GAAP which follows specific principles whilst tending to be more and more in line with the IFRS’s principles.

All these documents must be complete, without any blanks or corrections. All accounting documents and invoices must be kept for ten years.
There are no accounting statements which state where the books and records must be kept. However, a tax provision states that accounting documents must be accessible to the FTA at the main establishment or at the head office location.

Accounts must be kept in French and must be in line with the PCG (Plan Comptable Général) regulation. This act specifies the numbering method for business accounts. This obligation to maintain local accounts simplifies many of the tax reporting requirements. The FTA’s guidance could refer to the number of a particular account, making it easy to identify.

**Mandatory documents to be maintained**

There are three legally required ledgers: the day book (le livre-journal), the inventory ledger (le livre d’inventaire) and the general ledger (le grand livre). The first one keeps a record of every movement, the second one is a list of all assets owned by the entity and a valuation of these assets and the third one is a synthetic presentation of the general ledger.

Failure to comply with accounting provisions is an offence. Offenders risk a penalty up to €45,000 and five years of imprisonment.

**Key principles of French accounting**

Accounts must give a regular, sincere and faithful picture of the business’s financial position. Those three criteria are key principles of French accounting rules. The first one refers to the regularity principle. It means that accounts must meet the different rules and proceedings enforceable at the time of their establishment. If no specific rules are in force, general agreed principles must be applied.

The second one refers to the sincerity principle. It means that the person in charge of keeping the accounts must express in those accounts the relative importance of the different information registered. The sincerity implies a correct valuation of the different debts, risks and depreciations registered. It could be described as the reality of the business’s accountant.

The third one refers to the faithful principle. This third criteria implies a subjective approach. The faithful principle is used to bring shades of meaning when the first two principles cannot bring a real picture of the situation described. Once the different rules have been applied, the faithful principle implies that the application of the rules does not distort reality and does not misinform the user of the accounts.
Human Resources and Employment Law

Determination of the applicable employment legal framework

Doing business in France, from an employment law standpoint, initially requires determination of the legal framework which will govern the relationships between the employer and its employee(s).

Other sources of law itself, other sources of law may provide the employee(s) with particular entitlements and, to the same extent, the employer with (i) obligations, which, most usually, exceed its obligations as defined by law but also (ii) opportunities such as greater flexibility in terms of employees’ working time. Amongst these sources, the collective bargaining agreement (also referred to, hereafter, as ‘CBA’) is the most important to determine.

Indeed, there are tens of CBAs, which are signed at a national or local level between Employee Unions and Employer Organisations in the various sectors of activity. CBAs generally cover many matters in connection with employment: hiring, definition of the job classification, retirement and providence schemes, paid leave, working time, termination, etc. Employees must be informed of the applicable CBA (if any) by writing and the employer must comply with the provisions thereof.

Thus, when starting business in France, the first requirement from an employment standpoint, would consist of carrying out an analysis in order to determine the compulsory collective bargaining agreement, which may apply to the work relationship between the employer and the employee, bearing in mind the main activities of the employer working in France within, or outside of, a legal entity.

Overview of hiring rules

Principle
Subject to the restrictions provided by the immigration rules (see next section), a foreign company can freely, hire employee(s), even though it has not set up a legal structure in France (such as such structure may not have been set up, given the low number of employees or the temporary nature of the operational presence in France, i.e. where the activity performed in France does not characterise a PE in France).

Absence of discrimination
No individual can be rejected from the recruitment process for a discriminatory reason (such as national origin, gender, race, political opinions, employee representative office, religious convictions, sexual orientation, etc.). Candidates may only be requested to provide information that has a ‘direct and necessary’ link with the proposed job, the knowledge of which being justified and proportionate with regard to the aim pursued by the employer (i.e. to be analyzed for each situation).

Employment contract
By default, employment contracts under French law are for an open-ended period. It is generally in writing, although French law does not require that the open-ended employment contract is in writing (unless the employee requires so). In any event, the employer must provide some basic information related to the employment relationship by writing (e.g. name of the employer, date of hiring, job title, status, remuneration, working time, etc.), the list of which is provided by the law.
In strictly limited cases (e.g. replacement of an absent employee, exceptional increase of activity, etc.), employment contracts may be for a fixed period. The fixed-term contracts must be written and include specific details (e.g. reason for using a fixed-term contract), failing which the contract would be recognised as an open-ended employment contract.

When written, the employment contract must be in French and its main terms (e.g. related to remuneration, working time, etc.) cannot, in principle, be amended without the employee’s express consent.

Declaration of employment and relation affiliations

Any hiring of an employee requires that the employer declare him/her to the local competent Social Security Authorities (named in short ‘URSSAF’) office, within the 8-day period preceding the starting of the employee’s work, by the way of a declaration of employment (i.e. ‘Déclaration unique d’embauche’ also referred to as the ‘DUE’). URSSAF is the authority which receives the social security mandatory contributions, paid by the employer and the employee, aiming at covering the following risks: illness, maternity, invalidity, unemployment, old age (i.e. retirement). The DUE also enables the (i) registration/affiliation with occupational medical services (‘Service medical du travail’) and the unemployment fund (‘Pôle emplois’) and (ii) organisation of the first mandatory medical examination.

The employer is also required to affiliate the employee to (i) the mandatory complementary retirement funds, determined in consideration of the employee’s status (i.e. non-executive: ‘non-cadre’ or executive: ‘cadre’) and (ii) welfare plans.

Beyond a headcount of 50 employees, the employer is required to file and send to the departmental director of labour, within the first eight days of each month, a declaration of all the employment contracts concluded and/or terminated during the preceding month.

Medical examination

Each new employee must undergo a medical examination before his/her hiring, or, at least, before the end of the trial period.

Overview of the immigration rules

Hiring foreigners in France entails special rules, which may be summarised under two main situations:

• in the case that a foreign employee comes from a country which is a member of the European Union (‘EU’), except Bulgarian and Romanian nationals; and/or of the European Economic Area (‘EEA’) or Swiss nationals, a work permit is not required. The employee must only produce a document (i.e. passport, national identity card) which justifies that he/she is a national of the EU and/or of the EEA countries or of Switzerland.

• in the case that an employee is a non-EU national or a Bulgarian/Romanian national, he/she must have a permit authorising him/her to work in France i.e. either, a resident permit (valid for 10 years and renewable and authorising for working without limitation) or a work / residence permit (valid for, at the most, 3 years). The permit must expressly mention the status and conditions under which the foreigner will work in France.

In any event, the employer must, before hiring (i) verify that the immigration rules are followed, i.e. that either the employee is an EU, EEA or Swiss national (excluding Romania and Bulgaria), or that he/she has a valid work permit authorising the contemplated professional activity and (ii) proceeds to the relevant declaration formalities (if applicable). Indeed, hiring a foreigner in violation of the above rules may lead to criminal sanctions for the employer and also badly impact the image of the company.

Employees’ main work conditions

Payment of salary/minimum wage

Trial period

A trial period may be stipulated in the employment contract. For an unlimited contract, the legal trial period is two (2) months for workers (‘ouvriers’), three (3) months for technicians and supervisors (‘agents de maîtrise’) and four (4) months for executives (‘cadres’). It may be renewed once, for the same duration, with the written consent of each party. Thus, it cannot be the employer’s unilateral decision.

For fixed-term contracts, the trial period may not exceed:

• one (1) day per week, within the limit of two weeks, for an initial term contract of maximum six (6) months;

• one (1) month for a fixed-term contract of, at least, six (6) months. During the trial period, each party may, in principle, terminate the contract at any time, without referring to real and serious reasons and without following a specific procedure.

The above rules may need to be combined with the provisions of the applicable CBA, if any.

• paying the employees monthly;

• paying a salary, at least, equal to (i) the statutory minimum wage provided by the law for all kinds of employees (named in short ‘SMIC’) and, possibly, if more favourable, to (ii) a conventional minimum wage (i.e. provided by the applicable CBA) as per the classification set up by such CBA and on the employee’s status (e.g. ‘cadre’) and level. In 2012, the monthly minimum wage equals, in gross, to €1,397.29 on the basis of the legal working time (i.e. 35 hours per week).

In practice, determining the employee’s salary can give rise to a prior negotiation between the parties, in consideration, notably, of the level of salaries paid for the same level of position and seniority, within the sector of activity/geographic area where the employer performs its activity;

• paying possible additional premiums (e.g. based on years of service) that may result from the applicable CBA;

• withholding the mandatory social security contributions, the rates of which amount, approximately, to 45% for the employer and 22% for the employee. In other words, when an employee’s gross salary is 100, he/she gets 78, in net (before personal income tax – in principle not withheld by the employer in France) and the corresponding cost for the employer is around 145;

• providing the employees with pay slips showing, amongst other mandatory details (see paragraph ‘Employment contract’ above), the various elements of their remuneration as well as the social security contributions withheld from such remuneration.

Working time

By default, the full working time is 35 hours per week.

This number of hours serves as a reference basis, beyond which overtime is calculated. The hourly rate of each hour of overtime performed during the week is increased by 25% for the first 8 hours and by 50% beyond. Total or part of the payment of the overtime can be replaced by rest in lieu under specific conditions.
In companies having 50 employees or more, the employer must implement a profit sharing plan, in application of which a reserve is (i) calculated yearly as per a legal formula provided by the law or the plan itself (if more favourable) for the employees and (ii) shared between the employees.

Employees’ representation

When certain headcount thresholds are reached (during 12 months, consecutive or not, over a 3-year period), the employer has the obligation to organise elections aiming at putting in place employee representatives:

a) when a company has been employing 11 employees or more, the employer must organise elections of staff delegates (i.e. ‘délégués du personnel’);

b) when a company has been employing 50 employees or more, the employer must organise elections of a works council (i.e. ‘Comité d’entreprise’).

Employees’ main benefits

By law, the employees are entitled to various statutory rights and benefits:

Social security mandatory scheme coverage

The payment of mandatory social security contributions from the employee and the employer, withheld, monthly, from the employee’s pay slip, allows the employee to benefit from a minimum coverage for the following risks: sickness, maternity, welfare (i.e. invalidity and incapacity), unemployment, retirement and complementary retirement.

Other rights and benefits

Employees benefit from other rights resulting from the law (such as training) or from company agreements or customs and usages (such as additional pension scheme/health insurance/paid vacation, etc.).
These elections must be reorganised every 4 years.

In the companies referred to in b) above, the Unions that are considered as representative within the sector of activity of the company (in accordance with specific criteria), may appoint Union delegates (i.e. ‘délégués syndicaux’);

The role of these various employee representative bodies is different. In summary (as the roles may interact or vary depending on the circumstances):

- the staff delegates represent the employees regarding their day-to-day claims and requests (e.g. work conditions, health and safety, etc);
- the works council should be informed and/or consulted about all the decisions impacting (i) the work conditions, (ii) the company’s organisational structure and/or (iii) the headcount. The works council’s role is particularly key during significant undertakings such as acquisitions or restructurings, in particular (but not only) when they directly impact employees;
- the Union delegates are permitted to negotiate the employees’ collective rights and to conclude the related company collective agreements.

Finally, companies with over 50 employees must set up a Health and Safety Committee (i.e. ‘Comité d’hygiène, de sécurité et des conditions de travail’), the members of which are appointed by the works council members and the staff delegates. The Health and Safety Committee’s assignment consists of involving the employees in training and other initiatives to prevent occupational risks and to improve working conditions.

The employee representatives benefit from (i) a certain number of hours per month (considered and paid as normal working time by the employer) to carry out their responsibilities and, also (ii) specific protection against discriminatory measures from the employer (also refer to the paragraph below, related to termination).

Termination of the employment contract

An employment contract may end in various ways: resignation, mutual agreement, dismissal (for personal or economic reasons), retirement or end of a fixed-term contract.

Termination in consideration of the employee’s age: retirement

The legal age of retirement is 60. Such age will progressively be increased to 62 until 2017.

To date, to benefit from a retirement pension at a full rate, employees must contribute to the statutory retirement scheme for a minimum of 40 years (i.e. 160 quarters) and, for people born after 1955, for a minimum of 41.5 years (i.e. 166 quarters).

By exception, employees retiring at 65 (67 by 2023) are automatically eligible to the full rate, whatever the number of years they worked, even though the duration of their working period is taken into account to determine the amount of the pension allowance.

In principle, employees cannot be forced by their employer to retire before they are 70. To date, for employees aged 65 years old, the employer can only offer retirement once a year. If the employee wishes to do so, the employer must obtain his/her formal approval.

In the case of forced retirement, the employer has to respect a notice period and pay an indemnity to the employee (equal to the minimum legal severance payment or, if provided by the CBA and if more favourable, equal to the dismissal indemnity provided by the CBA).

Termination on the employee’s initiative: resignation

An employee can always resign without providing either explanation or indemnity, provided that he/she respects a notice period either determined by the applicable CBA or, if not, by the customs in force in the profession/sector of activity. Such notice periods are usually between 1 to 3 months.

Termination on the employer’s initiative: dismissal/redundancy

The employer may terminate an open-ended employment contract for personal (i.e. linked to the employee’s behaviour or performance) or economic reasons (‘redundancy’/‘collective lay-offs’).

In both cases, except during the trial period, the employer must (i) provide genuine and serious reasons to dismiss the employee and (ii) comply with a procedure and related timetable, which varies depending on the interaction of various criteria, such as the reason for the dismissal, the number of employees concerned (in the case of a dismissal for economic reason), the employee’s status (i.e. executive or not executive), the company’s headcount and the presence of employee representatives (in particular, a works council).
In any event, a dismissal for economic reasons leads to specific obligations for the employer in terms of procedure: e.g. determination of an order of dismissal to identify the employees to be kept in priority, research of redeployment opportunities within the group, proposition of a mandatory redeployment programme/leave (the nature and extent of which will mainly depend on the company’s size), etc.

In case of collective lay-offs within companies having a works council, the procedure may lead to extensive negotiations with the employee representatives and the financing of various measures aiming at mitigating the adverse effects of the terminations. This particularly applies when the employer is required to implement a social plan called ‘Plan de Sauvegarde de l’Emploi’, i.e. when the collective lay-offs (i) impact, at least, ten employees within a same time-period of 30 days and (ii) occur within a company having, at least, 50 employees. In such case, the measures referred to above may consist in payment of substantial indemnities, financing of training programmes, aids to creation of company, actions to develop the employment area where the company performs its activity in coordination with the local administrative authorities (in the worst cases), etc.

Except in case of gross misconduct (‘faute grave’):
- the employer must also respect a notice period, the duration of which depends on the employee’s seniority, under the law and most usually, on the employee’s status, seniority and/or age under a CBA;
- employees dismissed having at least 1 year of service are entitled to a severance payment equal by law to 1/5 of monthly salary per year of service for the first 10 years and 1/3 of monthly salary per year beyond 10 years of seniority.

It must be noted that certain categories of employees benefit from a specific protection against the dismissal, such as employee representatives (extensively defined), pregnant women, women in maternity leave, employees absent for professional injury or further a work accident.

Termination on both parties’ initiative: termination by mutual agreement
In the case the employer and the employee both wish/agree to terminate the employment contract, they may conclude an amicable termination agreement. In most cases, they will use a specific procedure (lasting approximately 6/7 weeks), under which they meet (to discuss the termination conditions), fulfil and sign a formal form (as issued by the French Labour Authorities) and submit it to the relevant labour authorities for ratification.

Under this specific procedure, the employee is not entitled to a notice period, but receives an indemnity allowance, which amounts, at least, to the legal (or conventional if more favourable) severance payment that would be due in case of dismissal.

Litigation
The employee has five years to sue his/her employer if he/she considers that he/she was dismissed in violation of the French labour law rules (unfair reason, violation of the procedure, violation of his/her specific protection, etc), except in one case where the employee has only twelve months for suing his/her employer i.e. action leading to cancelling the dismissals on the basis of the recognition of the absence or insufficiency of a social plan.

In cases of litigation, whatever the ground of the dismissal (personal or economic), dismissal recognised as unfair gives rise to the payment of damages, the amount of which corresponds to the wrong suffered by the employee. For employees with 2 years of service or more in a company of eleven employees or more, the damages cannot be less than 6 months of salary. Litigation may be stopped or avoided by the signature of a settlement agreement with the employee, under which the employer would contractually grant damages.
Trade

Competition issues

In order to set up a business in France, a company must abide by mandatory competition regulations. Prior to any operations in France, companies must notify all potential operations carried out in France to the French competition authority when certain turnover thresholds are reached (A). Furthermore, once the business is set up and operating in France, the company must respect regulations in relation notably to anticompetitive practices (B). Infringements of both sets of regulations are heavily sanctioned.

Merger Control

When is a company required to notify operations to the French competition authority?

In the case of operations carried out in France by French or foreign companies, it must be ensured that these operations are notified to the French competition authority. Such is the case when the purported operations are ‘concentrations’ reaching the French legal turnover thresholds.

- the notion of ‘concentration’ covers under French law various cases and notably:
  - mergers between two previously independent undertakings or;
  - acquisitions by one or more persons (already holding control of at least one undertaking) of control of all or part of one or more other undertakings, directly or indirectly, whether by the acquisition of a holding in the capital or by purchasing assets, through the signing of a contract or any other means;
  - creation of a joint venture, performing on a lasting basis all the functions of an autonomous economic entity.

- where such operations are concerned, it must be verified whether the merger thresholds provided for in article L.430-2 of the French commercial code are reached, that is to say:
  - a combined aggregate worldwide turnover before tax of all the undertakings concerned greater than €150 million;
  - an aggregate turnover before tax achieved in France by at least two of the undertakings concerned greater than €50 million.

Lower thresholds are provided for in the retail distribution industry as well as for operations carried out in the French non-metropolitan departments and territories.

One must always check prior to notification to the French competition authorities whether the operation has a Communautary dimension since European concentration control is exclusive of national merger control, that is to say that the operation must be notified to the European Commission when the operation reaches the Communautary thresholds or if the notification must be made in at least three member States.

What is the content of the obligation to notify?

When the above mentioned thresholds are reached, the operation must be notified to the French competition authority prior to its acquisition by the purchaser or by the founding companies in the case of a joint venture.

The notification takes the form of a file containing information pertaining notably to the operation (economic purpose, financial and legal details etc), to the concerned companies (financial data, past investments and mergers etc) and to the relevant or affected markets which must be defined under competition law (including the communication of the market shares of the parties and competitors on all relevant market segments).
The notification may be made whenever the concerned parties are in a position to present a sufficiently advanced project in order to allow the instruction of the file by the French competition authority and notably when the parties have concluded an agreement in principle, signed a letter of intention or from the announcement of a public offer.

It is recommended to prepare for such notification well in advance as the preparation of a notification file is usually long and one must take into account the fact that the French competition authority may take several months before considering that the file is complete.

From the moment where the French competition authority considers that the file is complete, the French competition authority will render its decision within 25 business days for operations presenting no major risk of damage to competition, or more exceptionally, forbid it.

What sanctions are incurred? Should the parties fail to notify the operation prior to its realisation, the French competition authority may impose a financial penalty whose maximum amount is, for legal persons, 5% of their pre-tax turnover made in France during the last closed financial year, plus, if applicable, the turnover which the acquired party made in France during the same period, and, for natural persons, €1.5 million.

It must be noted that the French competition authority also sanctions cases of abuse of a collective dominant position, when several companies have, notably in reason of a strong correlation between themselves, the possibility to adopt a common line of conduct on the market and to act independently from other competitors or from consumers. The abuse of such collective dominant position does not need to be the act of all companies holding the collective dominant position.

Financial sanction of anticompetitive practices
The sanction incurred for such practice is a penalty of up to 10% of the worldwide turnover of the group to which the company belongs. It may vary in relation with the gravity of the practice, the effective damage done to the concerned industry or sector, the situation of the concerned company and the cases of subsequent offences.

Last, companies operating in France must keep in mind the existence of restrictive practices which may also be sanctioned under French competition regulations, among which notably:

**Anticompetitive practices**

Once set up in France, companies must ensure not to commit anticompetitive practices, that is mainly:

- concerted practices;
- abuses of a dominant position.

They must also refrain from committing any one of the diverse restrictive practices.

**Anticompetitive collusive practices** Article L.420-1 of the French commercial code (as well as article 81 of the European treaty) prohibits collusive practices where several operators decide to act in common to adjust their behaviour, instead of commercially acting independently. Such behaviours (actions, agreements, express or tacit undertakings or coalitions) are prohibited when they have the aim or may have the effect of preventing, restricting or distorting the free play of competition in a market, are notably prohibited behaviours limiting access to the market or the free exercise of competition by other undertakings, preventing price fixing by the free play of the market, limiting or controlling production, opportunities, investments or technical progress and sharing out the markets or sources of supply.

It must be noted that horizontal collusive practices (between undertakings actually or potentially competing on the same type of product or service) which must be differentiated from vertical collusive practices (for operators acting at different levels of the economic chain, such as producers and distributors) are the more heavily sanctioned.

Abuses of a dominant position Article L.420-2 of the French commercial code (as well as article 82 of the EC Treaty) prohibits abuses of a dominant position by undertakings. Contrarily to collusive practices which are bilateral or multilateral, abuses of a dominant position are in general set up by an operator using its dominant position on a market to lock the market, push competitors out of the market or impair new operators to enter the market. The concept of abuse covers different types of situations such as notably predatory prices, refusal to sell, loyalty discounts, tied selling/bundling or breach of established commercial relationships.
Banking in France

Types of bank accounts

- **Payment account (‘compte de dépôt’) or bank account** is an account held in the name of one or more payment service users which is used for the execution of payment transactions, as collection and withdraw cash, execution of credit transfers, direct debits or payment transactions through a payment card. For example, current accounts (‘comptes courants’) and deposit accounts (‘comptes de dépôt’) whose account agreements usually cover the provision of payment instruments (debit card, transfer, but also cheque) and payment accounts.

- **Time deposit account (‘compte à terme’) is held by private individuals and companies.** The holder cannot use the funds deposited until a predetermined expiration date. The account earns interest at a fixed or variable rate. Notwithstanding, banks nowadays offer, in principal, to private individuals so-called savings accounts from which cash can be in fact withdrawn at any time.

- **Security and associated cash account may also be opened in the name of the company which invests in security and which it manages itself or entrusts to a third-party manager (which can be the bank).**

Ease of setting up a bank account or issues to be aware of

Foreign investors are free to open one or several bank accounts for their company (branch or subsidiary) established in France. There are no restrictions on this banking operation.

To open an account a number of documents are required by the bank and you will need the following to attest your capacity to contract with the bank:

- a proof of valid registration of the company;
- a power of attorney of the company’s representatives empowered to deal with the bank, a certified copy of the company’s Articles of Association and amending supplements detailing any legal changes.

Other documents may be required by the bank: 1) for Anti-Money Laundering purposes (see below), 2) where security accounts are opened, in order to comply with EU MiFID Directive requirements relating to client acceptance. Information would then cover customers’ investment experience and objectives for the purpose of suitability/ appropriateness test, other documents on a case by case basis (proof of identity of individuals having the authority to act on the account of the company, letter of comfort of the mother company etc) which, in fact, are requested by the bank as part of the bank’s ‘KYC’ procedure.

Foreign traders are also free to open bank accounts for a commercial activity. In this case, the bank must check the regularity of this activity. It must insist on verifying that the non-resident foreign trader has initially obtained the prior consent of the Prefect of the Department for the conduct of his business (art. L.122-1 of the French Commercial Code). As regards the resident foreign trader, the bank must check that he was granted a permit authorising the exercise of a professional activity (art. L.313-10 of the Code on Entry and Stay of Foreigners and Asylum in France). EU nationals, EEA nationals, and Swiss nationals are exempted from these administrative obligations.

Ability to access local financing

Foreign investors can freely apply for loans with French banks. There are no legal restrictions on this type of banking transactions.

Loans are freely negotiated between the bank and the company’s legal representatives. Banks will generally require the investors to provide guarantees, although to a lesser degree, if the bank is the one in which the investor accounts have been opened.

Administrative issues

A temporary restriction for opening an account could be encountered as regards the delay relating to the compulsory registration with the French trade and companies register (RCS).

When the Company is being formed, the identity and address of the incorporators are checked in cases where the corporate body does not exist yet.

Banks only agree to open a Company’s bank account at the request of the persons duly authorised to do so. Thus, banks require a power of attorney of the company’s representatives and the signatures of the persons having a mandate on the account to assess their ability to open the account and to operate into it.

The anti-money laundering regulations require that banks identify the effective recipient of a credit transfer when the transaction for all cross-border transactions. More generally, customers’ orders relating to funds transfer may be put on a hold in certain cases by the bank where there is a strong reason to believe the transaction is fraudulent.

Anti-fraud and anti-money laundering regulations and associated ‘Know Your Customer’ rules require the bank to identify their customers by gathering information on the company’s activity, its turnover, the reasons for opening of the account and the way it is expected to be used and as the case maybe the origin and destination of funds, the estimated value of forthcoming transactions (in order to identify ‘suspicious transactions’), and if available or relevant, major customers and suppliers, and as the case may be, information on major shareholders.

To transfer funds abroad, you must be aware of the possible delays that may apply.

In general, French banks offer 2 types of transfers:

- Transfer to a recipient whose account is held in a SEPA country (EU countries plus, Norway, Liechtenstein, Monaco (Iceland and Switzerland). 1 Business day provided that the transfer is in Euros;

- International transfer outside EEA and SEPA countries: timelines vary from country to country. Generally, an Urgent Currency/International Payment option is offered by the bank to the customer to reduce undue delay.
HSBC in France

Overview

HSBC France, formerly Credit Commercial de France (CCF) founded in 1894, became a subsidiary of the HSBC Group in 2000 and changed its name to HSBC France in November 2005.

HSBC France is a universal bank serving both personal and business customers, capitalising on the HSBC Group’s first-class international presence, financial robustness, and banking and technological innovations.

HSBC France’s strategy is to have its retail banking branches specialised by customer segment, through the creation of branches reserved for businesses and branches solely for personal customers.

Network

- With around 400 outlets, HSBC is rolling out its range of retail banking products and services across the length and breadth of France through branches dedicated to personal customers, HSBC Premier Centres, Commercial Banking, Entrepreneurs Centres and Corporate Banking Centres. Personal Financial Services supported by its increasingly strong brand recognition since the 2005 rebranding.

Awards for Excellence

- HSBC France, best Quality of offered service for employees of international company by Cercle Magellan 2010.
- HSBC Private Bank France, best capital Eurassur on 3 and 5 years, category actions, sector Bank by Lipper Fund Awards France 2010.
- HSBC Global Asset Management, best range of international shares within the local banking network, by Le Revenu 2010.
- HSBC Invoice Best Factoring Institution in June by Trade Finance 2009.

Corporate Sustainability

For HSBC, Corporate Sustainability is about bringing social and environmental issues together with financial performance to maintain and grow a successful business for the benefit of our stakeholders.

- We apply clear policies and processes to manage potential social and environmental risk in our lending and other financial activities in sensitive sectors.
- We help our clients to seize the opportunities presented by the shift to a low carbon economy.
- We try to reduce our own environmental footprint and share good practice on this with our clients and other stakeholders.
- We focus our community investment (philanthropic activities) on education and the environment.

Our education programmes help to lift people out of poverty, build financial literacy and promote environmental awareness. In France, more than 9,000 children of 70 associations have been granted financial support from the HSBC foundation and 265 HSBC employees have helped those children since 2005.

The environmental sponsorship policy of HSBC in France is focused on 3 targets: educate children in environmental protection with, for example, the Maud Fontenoy foundation, raise employees awareness of ecological issues, and support climatic alterations research of financial industry, like the Corporate Social Responsibility chair, and the financial carbon chair of Paris institute Europlace.

Milestones

1890
Credit Commercial de France (now HSBC France), was created

2000
On 1 April 2000, HSBC launched a friendly takeover bid on Credit Commercial de France (CCF)

2003
CCF’s four private banking subsidiaries (HSBC Republic, CCF Banque Privée Internationale, Banque Eurofin and Banque du Louvre) merged in October 2003 to become HSBC Private Bank France

2006
Twenty Centres Premier opened

2008
HSBC France completed the sale of seven of their French regional banks

2010
HSBC Advance launched an offering targeting the ‘emerging affluent’ segment

2012
HSBC Asso Direct launched: online proposition for the associations

2012
HSBC Business proposition launched

2012
HSBC Equipment Finance: Leasing activity launched

2012
HSBC Factoring France: ISO 9001 Certification
## Country overview

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<th>Capital city</th>
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<td>Area and population</td>
<td>Area of 632,800,000 sq km and population size of 63.8 million</td>
</tr>
<tr>
<td>Language</td>
<td>French</td>
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<tr>
<td>Currency</td>
<td>Euro</td>
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<tr>
<td>International dialling code</td>
<td>+33</td>
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<td>National Holidays</td>
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<tr>
<td>New Year's Day</td>
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<td>Easter Sunday</td>
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<td>Easter Monday</td>
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<td>Labour Day</td>
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<td>1945 Victory Day</td>
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<td>Ascension</td>
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<td>Pentecost Monday</td>
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<td>Republic</td>
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Contacts

Virginie Louvel-Loréal  Tax Partner

Telephone: +33 1 56 57 40 80

Email: virginie.louvel@fr.landwellglobal.com

http://www.pwc.com/gx/en/worldwide-tax-summaries

Website: www.hsbc.fr

Phone: +33 1 40 70 70 40

Head Office: Head Office,
103 Avenue des Champs-Élysées, 75419
PARIS, cedex 08

3rd Edition: October 2012

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