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France

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Brief overview of the law and enforcement regime

France has seen major changes in bribery and corruption law since the landmark 9 December 2016 "Law on transparency, corruption and modernisation of the economy" (the "*Sapin II*" law), France's version of the Foreign Corrupt Practices Act (the "FCPA").

Today, two key bodies of law make up France's anti-corruption framework: criminal statutes on corruption (mostly in the French Penal Code); and the uncodified part of the above-mentioned *Sapin II* law that imposes anti-corruption compliance obligations on corporations.

France's enforcement agencies and courts significantly reduced their activity during the first months of the COVID-19 pandemic, and in particular from March to May 2020 (when France was under a nationwide stay-at-home order). At the time of writing, and in spite of substantial new restrictions since 29 October 2020, courts and government agencies have resumed enforcement operations and judicial proceedings.

French criminal law: a complex web of bribery and corruption offences

French criminal bribery and corruption statutes are notoriously complex (an author counts as many as 34 separate criminal offences for bribery and influence peddling alone), and explicitly cover a wide range of situations and possible perpetrators.

While it would take too long to list all the applicable offences, current provisions of the French Penal Code on bribery distinguish between bribery and influence peddling. Bribery implies the improper use of authority associated with one's function, while influence peddling ("*traffic d'influence*") implies the improper use of one's actual or alleged influence (e.g. to get another official to do or not to do something). They are different offences but usually carry the same maximum sentences.

These provisions punish both the briber and the bribed party. For each type of bribery or influence peddling, each party in the *quid pro quo* is covered symmetrically by a different offence. Depending on the individual's actions (i.e. giving or receiving the bribe), the charge will be of "active" or "passive" bribery (this also applies for influence peddling), and two parties to the "transaction" may even get different judicial outcomes.

In this respect, it is worth noting that a wide range of bribed officials or individuals, including private agents, can be sentenced. Separate provisions and lines of case law cover the bribery of public officials (defined broadly), of officials of international public organisations (like the EU), of judicial officials, of private officials (e.g. officers of a company in charge of procurement, referees in sporting events), and of foreign government officials.

Fines and prison sentences vary for each specific offence (e.g. 10 years' imprisonment and a €1m fine for active bribery of a foreign public agent). Following the general rule of art.

131-38 of the French Penal Code, fines are quintupled for legal persons. Additionally, under art. L.2141 of the French Public Tenders Code ("*Code des marchés publics*"), corporations convicted of bribery or certain other offences may be excluded from public tenders for a set time period.

Bribery remains an important issue in the context of the health crisis, as many public and private organisations forwent certain compliance requirements (e.g. third-party evaluation procedures) for emergency procurement decisions.

Anti-corruption compliance requirements under *Sapin II*

The 9 December 2016 "Law on transparency, corruption and modernisation of the economy", nicknamed "*Sapin II*" after the minister in charge at the time, is France's approach to comprehensive anti-corruption reform and a response to laws such as the FCPA and the UK Bribery Act. Building on existing criminal procedure statutes, the law toughened corruption sanctions and introduced new transactional tools (see below).

Most importantly, the law imposed stringent compliance obligations on large corporations and created the French Anti-Corruption Agency ("*Agence Française Anticorruption*", the "AFA").

Since June 2017, companies incorporated in France and exceeding certain size and turnover thresholds[1] are required to have an anti-corruption compliance programme that meets certain specifications.

Compliance programmes under *Sapin II* must be tailored to prevent acts of bribery and influence peddling, and must include the following measures:

- a code of conduct;
- an internal whistleblowing mechanism;
- a corruption risk-mapping system;
- a risk assessment process for clients, suppliers and intermediaries;
- internal or external accounting controls;
- training programmes for employees exposed to higher risks of corruption and influence peddling;
- a disciplinary procedure for ethics violations; and
- an audit mechanism to assess the effectiveness of the compliance programme.

The AFA provided guidance on these aspects with its 2017 recommendations on anti-bribery compliance (which are in the process of being updated – see the "Proposed reforms / The year ahead" section below) and its "Guide on the corporate anti-corruption function" in January 2019. The AFA may also answer some more specific anti-bribery compliance questions through its office in charge of supporting economic actors.

One of the AFA's missions is to audit companies to make sure such programmes are implemented.

Accordingly, presidents, directors and managers of companies subject to *Sapin II*, as well as the companies themselves as legal entities, may be held administratively liable for the failure to implement a compliance programme. Notably, presidents, directors and managers of companies subject to *Sapin II* may not delegate their powers in this field. In other words, it means that although the AFA highly recommends the appointment of a chief compliance officer (whose position within the company must guarantee his/her independence and direct access to the Board of Directors), the latter may not be held liable should the AFA consider that the company failed to implement its anti-bribery compliance programme.

Pecuniary sanctions can reach up to €200,000 for presidents, directors and managers, and up to €1 million for companies. In addition, the AFA's Sanctions Committee (the AFA's

independent body in charge of adjudicating claims of non-compliance after audits) may order the publication of the sanction in the press.

In 2019 alone, the AFA initiated 20 new audits of private entities, including 3 "Global" audits of CAC 40-listed corporations and five follow-up audits of previously audited corporations. Consequently, companies must anticipate the AFA's audits and strengthen their anti-bribery compliance programmes. To do so, companies should rely on the questionnaire released by the AFA on its website and which the AFA's agents use in the frame of on-site audits. Companies should also conduct interview training so as to be prepared for offsite audits.

To make sure that all aspects of their anti-bribery compliance programme are covered, companies should ask law firms and audit firms to assist them in this "exercise". Obtaining anti-bribery certification delivered by a recognised organisation is also recommended, as it shows the robustness of the anti-bribery compliance programme in place.

Beyond anti-bribery compliance

Sapin II must not be reduced to its anti-bribery compliance provisions. Indeed, this law also tackles bribery through other provisions that: (i) enable whistleblowing within companies and protect whistleblowers from any type of retaliation; and (ii) regulate lobbying practices.

Whistleblowing

Pursuant to *Sapin II*, any company having at least 50 employees must determine the appropriate legal instrument for the implementation of procedures enabling whistleblowing.

Sapin II defines a whistleblower as "*a physical person who reports, selflessly and in good faith, a crime or an offence, a serious and obvious breach of an international commitment duly ratified or approved by France, of a unilateral act from an international organization issued on the basis of such commitment, of law or regulation, or a serious threat or harm to the public interest, of which he has personal knowledge*".

Whistleblowers must not be subject to discriminatory measures, and any retaliation by an employer following an alert will be considered null and void under French labour law.

Preventing someone from raising an alert is a crime punishable by up to one year of imprisonment and a criminal fine of up to €15,000 (the legal entity itself may face a criminal fine of up to five times this amount, i.e. €75,000).

According to *Sapin II*, the whistleblower should raise the alert with his/her hierarchical manager, employer or the person designated by the employer for that purpose (the referent).

If the alert is not addressed within a reasonable time period, the alert can be raised to the relevant administrative or judicial authority, or to the professional authorities; and if the alert is still not addressed within three months, the whistleblower may disclose it to the public.

Where there is a serious and imminent threat or risk of irreversible damage, the whistleblower may bring the alert directly to the attention of the administrative or judicial authority, or to the professional authorities. The whistleblower may also alert the public directly.

During the entire whistleblowing process, the identity of the whistleblower, the information provided and the person(s) involved in the reported alert must remain confidential. Revealing information that could lead to the identification of a whistleblower is punishable by up to two years' imprisonment and a criminal fine of up to €30,000 (the legal entity itself may face a criminal fine of up to five times this amount, i.e. €150,000).

Regulation of lobbying practices

Under French law, lobbyists basically include any legal entities where a director, employee or member:

- has devoted more than half of his or her time within the last six months to an activity which consists of communicating on his own initiative with public decision-makers, and whose purpose is "to influence one or several public decisions"; or
- has entered into communication at least 10 times within the last 12 months (on an ongoing basis) with public decision-makers, on his own initiative, in order "to influence one or several public decisions".

These criteria apply to all companies worldwide as long as one of their directors, members or employees – working in France or abroad – meets one of the above-mentioned conditions. Lobbyists are also individuals who engage in professional activities in an individual capacity under the same conditions.

The public decision-makers with whom lobbyists may communicate "to influence one or several public decisions" include: members of the government and of ministers' offices; MPs, Senators, and parliamentary assistants; assistants/advisors to the President of the French Republic; and directors of independent administrative authorities, etc.

Lobbyists must register with the High Authority for Transparency in Public Life (the "HATVP") and annually provide a set of information regarding their lobbying activities and the resources they allocate to such activities. This information is publicly available on the HATVP's online register.

In their relations with public decision-makers, lobbyists must declare their identity, the company they work for, and the interests they represent. Lobbyists must also follow ethical rules that notably prevent them from, *inter alia*:

- offering or giving to public decision-makers any gifts, donations or benefits whatsoever that have a significant value;
- undertaking any action with such persons with a view to fraudulently obtaining information or decisions;
- obtaining or attempting to obtain information by intentionally providing such persons with false information or by using misleading tactics;
- organising conferences, events or meetings where the public speaking arrangements by such persons are tied to the payment of any form of compensation;
- using, for commercial or publicity purposes, the information obtained from such persons; or
- selling copies of documents originating from the government or from an authority or using the official stationery or the logo of such authorities.

The HATVP ensures that lobbyists comply with these rules. In this view, the HATVP may obtain any document without business secrecy being invoked against it. The authority may also carry out on-site inspections, after having obtained authorisation from the custodial judge ("JLD") of the Paris Tribunal.

Failure to comply with the above-mentioned ethical rules, and failure to provide the information required by the HATVP regarding lobbying activities, constitute criminal offences punishable by one year in prison and a fine of up to €15,000 for individuals and up to €75,000 for legal entities.

Enforcement climate and tools

The enforcement climate for white-collar offences, including corruption offences, has become increasingly strict over the last few years.

The 2016 *Sapin II* law and earlier changes, such as the creation of a national financial prosecutor ("*Parquet National Financier*", the "PNF") in 2014, initiated this tougher

enforcement culture, with French prosecutors now willing to take the lead in major cross-border cases and use newly created transactional tools.

Sapin II introduced this change by creating an equivalent to the US deferred prosecution agreement ("DPA") called the "judicial public interest agreement" ("*Convention judiciaire d'intérêt public*", the "CJIP"). The agreement does not require admission of guilt (hence maintaining access to government tenders), and has been extended to white-collar offences other than bribery (e.g. tax fraud) following its success. It cannot be entered into by physical persons (but they have access to another transactional procedure that mandates a guilty plea). French prosecutors took advantage of the tool immediately: to date, 11 CJIPs have been entered into since they were introduced in 2016, for total penalties and disgorgements exceeding €3.175bn (the aggregate amount has tripled since our contribution to this guide last year, thanks to the €2.083bn penalty handed to the PNF in the *Airbus* settlement).

Overview of enforcement activity and policy during the last year

While the global pandemic has slowed down enforcement efforts and legislative projects since March 2020, France's bribery and corruption law landscape has reached a form of maturity in 2020. After a long-awaited alignment of its anti-corruption arsenal on international standards with the 2016 *Sapin II* law, the priorities of French legislators and regulators are now twofold: completing the implementation of the 2016 reform, and bringing change to other areas to continue building a French compliance law that meets or exceeds international expectations.

The AFA keeps releasing new anti-corruption compliance guidance for corporations

For bribery and corruption law, this translates in practice as a thorough effort by the AFA to provide entities with "soft law" guidance on practical compliance issues, such as: how to structure the corporate compliance function; how to deal with issues that may arise in M&A (released in January 2020); or gifts and invitations policies (see below).

The guidance on M&A confirms the now-established (but not legally mandated) practice of assessing a target corporation's situation *vis-à-vis* bribery issues, for both compliance aspects and possible identified acts of corruption.

The guide, which the agency amended to be more "pragmatic" after some industry pushback on the draft version released in 2019, offers some advice on the verifications to conduct at every stage:

- before signing (during the due diligence process, if possible);
- between signing and closing (continuing the due diligence, with a focus on riskier third-party relationships, accounting controls and the effectiveness of the internal whistleblowing programme); and
- post-closing (to fully integrate the target's compliance programme and investigate issues identified at earlier stages).

In the past year, we have seen some major investors implement these verifications as a default item in their M&A due diligence process. Given the AFA's efforts to provide a framework for these verifications, and although we do not know yet to what extent they may protect an investor in the event of an AFA audit revealing a problem, we expect that the agency will eventually consider these verifications a quasi-requirement in the long term.

Through this process, the AFA also expects that investors who identify issues or wrongdoing early on will have their target conduct an internal investigation, and eventually come forward for a CJIP to avoid liability.

Important administrative and judicial cases confirm France's commitment to enforcement

In 2019 and 2020, the AFA initiated its first administrative sanctions proceedings[2] against French corporations in front of its independent sanctions board ("*commission des sanctions*"), following on-site audits.

- In the first case, the AFA argued in front of the sanctions board that a corporation's anti-corruption programme did not comply with the law. Alleged breaches included improper cross-border implementation of the risk-mapping system, and accounting controls not adequately addressing corruption risks. In its 4 July 2019 decision, the Sanctions Commission acquitted the corporation on all charges.
- The AFA brought its second case against a listed industrial minerals company on multiple counts of non-compliance with the *Sapin II* law.

  The sanctions board cleared the company of charges relating to its risk-mapping, but chose for the first time to enjoin the company to adapt its code of conduct and accounting controls under penalty of a fine. The board decided that it would reconvene in 2021 to assess the corporation's progress (and, as the case may be, the need for monetary sanctions).

  The sanctions board noted, in particular, that the company's code of conduct did not comply with the *Sapin II* law, as it did not contain the required elements and merely redirected to a more comprehensive document that was not part of the corporation's internal regulations.

Both cases provided useful information on the legal value of the AFA's 2017 recommendations on anti-bribery compliance programmes: corporations subject to the obligations in art. 17 of *Sapin II* are not required to follow them, but must be able to show that any alternative measure they choose instead achieves the same result. The cases have undoubtedly informed the AFA's new draft of the recommendations (see "Proposed reforms / The year ahead" below).

On the judicial front, the landmark January 2020 *Airbus* multijurisdiction settlement helped cement France as a key player in global anti-bribery enforcement. The agreements – DPAs in the UK and US and a CJIP in France – stand out for the sheer size of the fines imposed: a combined €3.6bn in penalties, including a public interest fine of more than €2bn in the French CJIP.

Law and policy relating to issues such as facilitation payments and hospitality

French criminal law does not have a specific exception for either "facilitation payments" or gifts/hospitality offered to government officials. This means that all improper gifts or advantages may be construed as bribery (or a similar offence).

Facilitation payments

Under French law, the fact that a bribery payment is made for the sole purpose of getting an official (such as a customs official or law enforcement officer) to do his or her job consisting of "routine governmental action" is not a valid excuse to avoid liability. This is true regardless of the party initiating the facilitation payment.

Neither the French Penal Code nor other sources allow facilitation payments, which means that individuals or corporations taking part in these payments may be charged with public domestic or international bribery offences. While it is not a prosecution or investigation agency *per se*, the AFA has a documented position of assimilating facilitation payments into bribery offences.[3]

Corporations should therefore note the differences between French criminal law and the FCPA on that aspect when drafting their anti-corruption policies.

Gifts and hospitality

Similarly, the French Penal Code does not provide for any exception for gifts and hospitality offered to public officials. Until very recently, there was no official guidance, and corporations often modelled their policies on standards applicable in other countries, such as the United States.

In September 2020, the AFA issued a "*Guide on gifts and invitations policies for corporations, associations and foundations*" to help entities draft their anti-corruption policies on that matter. The agency published a draft version for comments in July 2019 and the definitive version,[4] while non-binding, serves as a useful reference tool. In the guide, the AFA offers guidance on the items to consider when drafting a policy (e.g. value and frequency of the gifts, transparency and accounting considerations, etc.) alongside examples of best practice.

Finally, it is worth keeping in mind that French bribery statutes, unlike some of their foreign counterparts, also cover *private* bribery (see overview of the law above). This means that a well-drafted policy should also address gift-giving practices to non-public-sector individuals (e.g. gifts to a purchasing manager of a client or prospective client).

Key issues relating to investigation, decision-making and enforcement procedures

Cooperation, a staple of US-style enforcement once seen to be incompatible with French legal culture, was recently heavily encouraged by joint AFA–PNF guidelines on CJIPs published last July.[5] In the guidelines, the agencies cite the implementation of an effective compliance programme, and cooperation of the targeted entity, as key factors in reaching a CJIP agreement with prosecutors.

The agencies explicitly state that cooperation can reduce penalties, designating self-reporting and cooperation through internal investigations turned over to the government as essential factors for the prosecutors, not only in deciding whether to allow a transactional outcome, but also in determining the sentence/fine.

In practice, when negotiating a CJIP, a lack of cooperation can result in harsher fines and/or disgorgements. In the first-ever signed CJIP in the *HSBC* case (2017), the agreement noted, to justify the heavy fine, that "*[the defendant], which neither voluntarily disclosed the facts to the French criminal authorities, nor acknowledged its criminal liability during the course of the investigation, only offered minimal cooperation in the investigation*".

The *Airbus* case, which started as self-reporting and continued with extensive cooperation between the target and the joint investigation team, will also undoubtedly help change France's culture on self-reporting and cooperation and set new expectations from prosecutors.

Overview of cross-border issues

Heavy fines on French corporations in sanctions matters (such as the US$8.9bn fine for French Bank BNP Paribas in 2014) or anti-bribery (like Alstom's 2014 US$772bn fine) have made cross-border bribery enforcement a very sensitive issue in the French political space. Many of these cases are perceived as improperly extraterritorial, and several congressional investigations have been initiated on the matter since 2014. Efforts by France to improve domestic anti-bribery enforcement have largely been presented as a way to limit such extraterritorial enforcement.

Cross-border evidence collection and the French Blocking Statute

There is today a recognition, across party lines, of the need for more protection of French companies' data and documents that has incited the government to act upon the issue.

France has long been wary of certain proceedings seen as extraterritorial application of foreign jurisdiction. Consequently, since 1968 France has had in place a "blocking statute" (amended in 1980) designed to prevent the abuses of entering discovery requests or subpoenas (commonly considered as "fishing expeditions") on French entities or individuals. It criminalises the transmission of information to foreign courts outside the channels set forth by treaties (such as the 1970 Hague Convention for civil matters or mutual legal assistance treaties for criminal issues).

While the law is widely considered not to be strictly enforced (only one case to date sanctioned a violation), things may change soon as a consensus emerges around the need for a more credible enforcement of the statute (see reform projects below).

Local and European prosecutors take the lead in cross-border cases

Some major cases show that French prosecutors may be evolving, from not participating in major cross-border bribery cases to joining the DoJ in existing cases, and finally to now taking the lead in cross-border cases.

- For example, shortly after its creation in 2014, the PNF tacked on the DoJ case mid-investigation in *Société Générale*, which resulted in a parallel US DPA and French CJIP with AFA monitoring in June 2018.
- The PNF and UK Serious Fraud Office (the "SFO") conducted a joint investigation into the *Airbus* case following self-reporting by the corporation in 2016, with the DoJ opening its investigation later on and separately. The case ended with a record-breaking €3.6bn settlement with the PNF, the SFO and the DoJ on 30 January 2020.

In the longer term, it will be interesting to see if increased anti-corruption enforcement by French and European prosecutors on domestic targets means a decreased focus by US agencies on European entities. One of the rationales of stronger bribery laws and enforcement practices in France was to show that the country is "doing its part" in fighting corruption, but only time will tell if this strategy is effective.

Corporate liability for bribery and corruption offences

Criminal liability for corruption offences

Art. 121-2 of the French Penal Code sets out the liability of legal entities as a general principle for all offences committed on their account by their organs or representatives. The same article notes that "*the criminal liability of legal persons does not exclude that of any natural persons who are perpetrators or accomplices to the same act*", meaning that both individuals and corporations can be found guilty of criminal offences like bribery, without needing different legal bases.

Anti-corruption compliance as a mitigating or aggravating factor

Involvement – or lack thereof – of the top management in corruption prevention is already a major theme in case law since, under French law, criminal liability attaches to the corporation as a result of the acts of its "organs or representatives" (i.e. its directors, officers or governing bodies).

Now that anti-corruption compliance programmes are mandated for large companies and audited by the AFA, the quality of these programmes (and audit results, if the corporation was audited by the AFA) can be an important factor in a legal case.

The AFA has publicly declared that it is willing to share with French or foreign judicial authorities the results of certain audits, and corporations themselves may want to use favourable AFA audit reports as evidence of their good-faith efforts to fight corruption.

Proposed reforms / The year ahead

The AFA's new 2020–2022 plan against corruption

On 9 January 2020 the AFA released, as mandated by its organisational decree, a "National Multi-Year Plan to Fight Corruption" for government, non-profits and businesses. In addition to public sector and sports-focused initiatives (in contemplation of the 2024 Olympic Games in Paris), the AFA notably plans to:

- Improve anti-corruption detection through data mining, by accessing corruption-related data from administrations and public agencies (or releasing it as open data) and developing dedicated tools.
- Further promote "French anti-bribery standards" to corporations (by providing sector-specific training) and investors (to facilitate access to financing of compliant companies).

While the plan only provides broad objectives at this point, the fact that it was drafted in collaboration with the Ministries of Justice and Budget and received public support from them means that actors can expect significant changes in agency processes (e.g. data mining for detection of bribery) and reform attempts in the medium term.

New and upcoming anti-bribery guidance from the AFA

The AFA is currently in the process of updating its 2017 Recommendations on anti-corruption compliance programmes (the "Recommendations"), the key guidance text for corporations subject to art. 17 of *Sapin II* (i.e. that are mandated to have an anti-corruption compliance programme).

As part of that process, a comment period began on 16 October 2020 for drafts of the new Recommendations. When the comment period ends, the new Recommendations will be officially published and replace the first version of the text, which was released in 2017.

In the new draft version (which, unlike the 2017 version, addresses separately public and private entities), the AFA builds on current guidance by adding practical considerations gathered from its advisory and audit missions, and in certain cases by the first AFA sanctions board cases (see above) in which compliance with the Recommendations was a key issue. For example, the AFA adds details on who counts as "top management", how the Code of Conduct integrates with other corporate documents/charters, and how anti-corruption whistleblowing programmes correspond with other legally mandated programmes.

Additionally, the AFA's office in charge of supporting economic actors continues to release issue-specific guidance aimed at helping all corporations (regardless of their obligations under art. 17 of *Sapin II*) to build their anti-corruption programmes. Following the release in December 2019 by the French Data Protection Authority ("*Commission nationale de l'informatique et des libertés*", the "CNIL") of a "Reference Framework on Workplace whistleblowing" drafted with the AFA, a joint AFA–CNIL guide on anti-corruption compliance and data privacy is said to be in the works.

A proposed reform of the blocking statute and a reaction to the US CLOUD Act

After several failed reform attempts by previous legislatures, French MP Raphaël Gauvain was tasked with writing a report on economic intelligence issues related to cross-border proceedings, and worked closely with the Ministry of the Economy on a reform proposal

that would create a clearer evidence transmission regime, in conjunction with certain recent changes introduced by the General Data Protection Regulation (the "GDPR").

On 26 June 2019, Mr. Gauvain issued a report to the Prime Minister[6] that proposed, among other measures:

- A stricter enforcement of the statute, with heightened sanctions in case of transmission of evidence in civil or criminal proceedings (up to two years' imprisonment and a fine of €2m for physical persons, and €10m for legal entities).
- Mandatory registration with the Ministry of the Economy's economic intelligence office (the "SISSE") for corporations targeted by foreign investigations. The executive may directly conduct the dialogue itself in certain important cases where strategic issues are at stake.
- Administrative sanctions of up to €20m for physical persons, and 4% of the global turnover for legal entities, for technology companies (e.g. cloud services providers) that unlawfully transfer data abroad in anticipation of litigation. This provision aims at limiting the extraterritorial effects of the US Clarifying Lawful Overseas Use of Data ("CLOUD") Act and its coercive power on French or European companies.
- Finally, Mr. Gauvain suggested extending legal privilege to in-house counsel, as only attorneys currently enjoy that protection. This would allow France to align itself with other jurisdictions on the issue, giving corporations the opportunity to assess frankly the legal implications of a situation (i.e. without creating incriminating evidence with their work product).

The Prime Minister reacted favourably to some of Mr. Gauvain's proposals, but the project was delayed, presumably by the COVID-19 pandemic. A parliamentary committee on "National and European Digital Sovereignty" was formed in September 2020 in Congress, and could help test Mr. Gauvain's proposed changes and draft a bill including some of them.

The general idea of Mr. Gauvain's proposed reform is not to block cooperation, but to limit extensive information-gathering operations that may have unwanted effects when target entities are deemed strategic.

The reform will be sensitive, as it will have to balance fundamental national economic interests with the necessary leeway for companies to defend themselves.

* * *

Endnotes

1. Essentially having 500 employees or more in France – or globally for groups headquartered in France – and having an annual turnover of €100m or more. See art. 17 of the law and the AFA's website for the precise scope, information and examples.
2. The AFA Sanctions Commission decisions 19-01 "*Société S SAS et Mme C*" dated 4 July 2019 (https://www.agence-francaise-anticorruption.gouv.fr/fr/document/premiere-decision-commission-des-sanctions-lagence-francaise-anticorruption) and 19-02 "*Société I. et M. C. K.*" dated 7 February 2020 (https://www.agence-francaise-anticorruption.gouv.fr/fr/document/deuxieme-decision-commission-des-sanctions-lagence-francaise-anticorruption).
3. The AFA, "*Point sur la problématique des paiements de facilitation*" (Presentation on the issue of facilitation payments) dated September 2018, published on the AFA's website (https://www.agence-francaise-anticorruption.gouv.fr/files/2018-10/2018-09_-_Paiement_de_facilitation_-_D2AE_-.pdf).

4. The AFA, "*Guide Pratique: Politique cadeaux et invitations dans les entreprises, les associations et les fondations*" (Practical guide: Gifts & Invitations policies in corporations, associations and foundations) dated 11 September 2020 (https://www.agence-francaise-anticorruption.gouv.fr/fr/cadeaux-et-invitations-en-entreprise-comment-eviter-risques-corruption-ou-trafic-dinfluence).
5. The AFA, "*Lignes directrices sur la convention judiciaire d'intérêt public*" (Guidelines on the Judicial Public Interest Convention) dated 26 June 2019 (https://www.agence-francaise-anticorruption.gouv.fr/files/files/Lignes%20directrices%20PNF%20CJIP.pdf).
6. Gauvain, R., "*Rétablir la souveraineté de la France et de l'Europe et protéger nos entreprises des lois et mesures à portée extraterritoriale*" (Re-establishing French and European sovereignty and protecting our companies from extraterritorial laws and measures), report to the Prime Minister dated 26 June 2019.

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