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INSURANCE CODE (Legislative part)

MISE A JOUR LEGIFRANCE 27/11/01

INSURANCE CODE, With the participation of
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Book I

The contract

Title I

Common rules applicable to non marine loss insurance and life insurance

Chapter I: General provisions

Article L111-1

(Act n°. 92-665 of 16 July 1992, Article 6, Official Journal of 17 July 1992)

(Act n°. 94-5 of 4 January 1994, Article 34, II, II, Official Journal of 5 January 1994 in force on 1 July 1994)

Titles I, II and III of this Book shall apply to non-maritime insurance only. With the exception of Articles L111-6, L112-2, L112-4 and L112-7, they shall apply neither to marine and inland waterway insurance nor to credit insurance transactions. Reinsurance transactions that insurers and reinsurers enter into shall fall outside the scope thereof.

There shall be no departure from the Acts and regulations relating to tontine-like companies, to insurance contracted by company directors, for liability of work-related accidents occurring to their workers and employees or to agricultural mutual insurance and reinsurance companies or funds.

Article L111-2

(Act n°. 81-5 of 7 January 1981, Article 28-1, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981)

(Act n°. 82-600 of 13 July 1982, Article 9, Official Journal of 14 July 1982)

(Act n°. 89-1014 of 31 December 1989, Article 7, Official Journal of 3 January 1990 in force on 1 July 1990)

Apart from requirements that grant the parties a simple right, which are set forth in Articles L112-1, L112-5, L112-6, L113-10, L121-5 to L121-8, L121-12, L121-14, L122-1, L122-2, L122-6, L124-1, L124-2, L127-6, L132-1, L132-10, L132-15 and L132-19, titles I, II and III of this Book may not be amended by agreement.

Article L111-3

Whenever an insurer reinsures itself for the risks that it insured, it shall be solely liable to the insured.

Article L111-4

(Act n°. 85-608 of 11 June 1985, Article 12, Official Journal of 20 June 1985)

(Act n°. 91-412 of 6 May 1991, Article 1, Official Journal of 7 May 1991)

(Act n°. 94-5 of 4 January 1994, Article 3, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

The administrative authority may impose the use of standard contract clauses.

Article L111-5

(Act n°. 81-5 of 7 July 1981, Article 26, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981)

(Decree n°. 85-863 of 2 August 1985, Article 1, II, Official Journal of 15 August 1985)

(Act n°. 90-500 of 25 June 1990, Article 3, Official Journal of 27 June 1990 in force on 1 August 1990)

(Act n°. 94-5 of 4 January 1994, Article 42 X, Official Journal of 5 January 1994 in force on 1 July 1994)

(Order n°. 2000-352 of 19 April 2000, Article 1, Official Journal of 22 April 2000 in force on 1 July 2000)

I Apart, however, from Articles L 122-7, L124-4, L 125-1 to L 125-6, L132-30 and L132-31, the provisions of titles I, II and III of chapter I contained in this code prior to Act n°. 91-716 of 26 July 1991 outlining various economic and financial provisions shall apply in French overseas territories.

II Apart from Articles L 124-4, L132-30 and L132-31, the provisions of titles I, II and III of chapter I shall apply in the collectivité territoriale of Mayotte.

Apart from the first and fourth paragraph of Article L125-6, Articles L122-7 and L125-1 to L125-6 shall however apply in the territory of the Wallis and Fatuna islands, subject to the following adaptations:

- the words “and the loss mentioned in articles L242-1” set forth in the second paragraph of Article L125-5 shall be deleted.

- the words “neither is this obligation binding” set forth in the second paragraph of Article L125-6 shall be replaced by the words “The obligation provided for in the first paragraph

of Article L125-2 shall not be binding”.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale ” shall be replaced by reference to the “collectivité départementale ”.

Article L111-6

(transferred by Act n°. 94-5 of 4 January 1994, Article 6, II, Official Journal of 5 January 1994 in force on 1 July 1994)

Shall be regarded as major risks :

1 those that fall within the following categories:

- a) hulls of rail, air, marine, lake and inland waterway vehicles or vessels as well as public liability for said vehicles,
- b) goods in transit,
- c) credit and guarantee when the policyholder, in a professional capacity, carries on an industrial, commercial or professional activity, provided that the risk relates to such activity,

2 those relating to fire and natural elements, other damage to property, general public liability, various pecuniary losses, hulls of non marine motor vehicles and public liability, including that of the carrier relating to said vehicles, when the policyholder carries on an activity where the extent thereof exceeds certain thresholds defined by decree in Conseil d’Etat.

Chapter II - Conclusion and evidence of the insurance contract – form and transfer of policies

Article L112-1

Insurance may be contracted pursuant to a general or special power of attorney or even without a power of attorney, on behalf of a specific person. In the latter case, the insurance shall benefit the person on behalf of whom it has been contracted even if the ratification thereof takes place after the loss.

Insurance may be contracted on behalf of whom it may concern. The clause shall be valid as insurance in favour of the policyholder of the contract and as a provision in favour of a third party in favour of the known or contingent beneficiary of said clause.

The policyholder of insurance contract on behalf of whom it may concern shall be solely liable to pay the premium to the insurer. The exclusions that the insurer may invoke against him shall also be invokable against the beneficiary of the contract, whomsoever he may be.

Article L112-2

(Act n°. 89-1014 of 31 December 1989, Article 8, Official Journal of 3 January 1990 in force on 1 May 1990)

(Act n°. 94-5 of 4 January 1994, Article 35, I, Official Journal of 5 January 1994 in force on 1

July 1994)0

The insurer must provide an information sheet on the prices and covers prior to the conclusion of the contract.

Prior to the conclusion of the contract, the insurer shall provide the insured with a copy of the draft contract and its attachments or a prospectus on the contract that provides a precise description of covers and exclusions as well as the insured's obligations. The documents provided to the prospective insured shall specify the law that governs the contract if it is not governed by French law, the procedures for investigating claims that he may under the contract, including in particular, where appropriate, if there is an authority in charge of such investigation, without prejudice to his right to bring a legal action, and the address of the registered office and, where appropriate, the address of the branch offering the cover.

A decree in Conseil d'Etat defines the means of recording the actual submission of the documents mentioned in the previous paragraph. It also determines the exemptions justified by the nature of the contract or the circumstances in which it has been contracted.

The insurance offer shall not be binding on the insured or the insurer. Only the policy or the cover note shall witness their mutual agreement.

The offer made by registered letter to extend or to amend the contract or bring a suspended contract back into force shall be deemed accepted if the insurer does not refuse said offer within ten days after receipt thereof.

The provisions of the previous paragraph shall not apply to life insurance.

Article L112-3

(Act N°.89-1014 of 31 December 1989, Article 9, Official Journal of 3 January 1990 in force on May 1990)

(Order n°. 2001-350 of 19 April 2001, Article 6, XXXI, Official Journal of 22 April 2001)

The insurance contract and the information referred to in this code that the insurer sends to the policyholder shall be written in clear print, in French.

Notwithstanding the provisions of the previous paragraph relating to the use of the French language, when, pursuant to Articles L181-1 and L183-1, the parties to the contract have the possibility of applying a law other than French law, the documents referred to in the first paragraph of this article may be written in a language other than French. The choice of other language than French is made either by mutual agreement of the parties or by, excepting the case where the contract covers the major risks defined in Article L 111-6, the policyholder's unilateral written request.

When the parties to the contract do not have the possibility of applying a law other than French law, said documents may, however, by mutual agreement of the parties and upon the policyholder's sole request in writing, be written in the language or in one of the official languages of the State of which he is a national.

When, before the execution of the contract, the insurer may put questions to the insured in writing, in particular, by means of the loss reporting form or by any other means, it may not complain that a question expressed in general terms procured only a vague reply.

The parties must draw up and sign a rider in respect of any addition to or amendment of the previous insurance contract.

These provisions do not preclude that the insurer and insured entered into mutual agreements by the submission of a cover note, even prior to delivery of the policy or rider.

Article L112-4

(Act n°. 81-5 of 7 January 1981, Article 30, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981)

(Act n°. 94-5 of 4 January 1994, Article 35, II, Official Journal of 5 January 1994 in force on 1 July 1994)

The insurance policy shall bear the date on which it was drawn up.

It shall state:

- the surnames and addresses of the contracting parties,
- the insured property or person,
- the nature of the risks covered,
- the moment from which the risk is covered and the term of said cover,
- the amount of said cover,
- the insurance premium or contribution,

The policy shall also state:

- the law governing the contract when it is not governed by French law,
- the address of the registered office of the insurer and, where appropriate, of the branch granting the cover,
- the name and address of the authorities in charge of controlling the insurance firm granting the cover,

The policy clauses that stipulate nullities, forfeitures or exclusions shall be valid only if they appear in very clear print.

Article L112-5

The insurance policy may be a named person, to order or to bearer.

Policies to order shall be transferred by endorsement, even blank.

However, this Article shall apply to life insurance contract only on the terms of Article L132-6.

Article L112-6

The insurer may invoke, against the policy bearer or a third party who claims under the policy, exclusions invocable against the initial policyholder.

Article L112-7

(Act n°. 89-1014 of 31 December 1989, Article 3, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 91-716 of 26 July 1991, Article 1, I, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 92-665 of 16 July 1992, Article 18, Official Journal of 17 July 1992 in force on 20 May 1993)

When an insurance contract is offered within the scope of the freedom of services within the meaning of Article L351-1 and Article L353-1, the policyholder, prior to the conclusion of any agreement, shall be informed of the name of the member State of the European Union where is located insurer's establishment with whom the contract may be entered into.

The information referred to in the previous paragraph must appear on all documents submitted to the policyholder or the insured.

The contract or cover note must state the address of the establishment granting the cover, where appropriate, the address of the registered office and the name and address of the representative referred to in Article L351-6-1.

Article L112-8

(inserted by Act n°. 94-5 of 4 January 1994, Article 35, III, Official Journal of 5 January 1994 in force on 1 July 1994)

When a contract covering the public liability ensuing from use of motor vehicles other than the carrier's public liability is concluded within the scope of the freedom of services within the meaning of Article L310-3, the contract or cover note must state the name and address of the representative for risk management that the insurer has appointed in France.

Chapter III : Obligations of the insurer and the insured

Article L113-1

(Act n°. 81-5 of 7 January 1981, Article 28, II, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981)

Save formal and limited exclusions contained in the policy, the insurer shall bear the losses and damage caused by unforeseen accident or caused by the insured's fault.

However, the insurer shall not be answerable for losses and damage caused by the insured's deliberate tortious intent or fraud.

Article L113-2

(Act n°. 89-1014 of 31 December 1989, Article 10, Official Journal of 3 January 1990 in force on 1 May 1990)

The insured shall be obligated to:

1 pay the premium or contribution at the agreed times,

2 truthfully answer questions put by the insurer, in particular, in the loss reporting form whereby the insurer questions him at the time of executing the contract on circumstances that enable the insurer to assess the risks that it covers,

3 declare during the contract the new circumstances that have the effect of either increasing the risk or of creating new risks and which on this account render the answers, notably, in the form referred to in paragraph 2 above, made to the insurer either untrue or lapsed.

The insurer must declare such circumstances to the insurer by registered letter within two weeks or a fortnight from the moment it is aware thereof.

4 inform the insurer as soon as he is aware thereof and no later than the time set in the contract of any loss that may involve the insurer's cover. Said time may not be less than five working days.

Said minimum time shall be reduced to two working days in the event of theft and to twenty four hours in the event of livestock mortality.

The above times may be extended by mutual agreement of the contracting parties.

When provided for in a contract clause, forfeiture due to lateness of report of loss having regard for the times provided for in paragraphs 3 and 4 above may be invoked against the insured only if the insurer proves that it entailed a loss by reason of the late report of loss. In addition, it may not be invoked in all events where the late report of loss is the result of an accidental case or an act of God.

The provisions of paragraphs 1, 3 and 4 above shall not apply to life insurance.

Article L113-3

(Act n°. 81-5 of 7 January 1981, Article 31, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981)

The premium shall be payable at the address of the insurer or of the representative that it appoints for this purpose.

However, the premium may be payable at the address of the insured or at any other place agreed in the cases and terms restrictively set by decree in Conseil d'Etat.

In the event of non payment of a premium or a part of a premium within ten days as of its due date, and irrespective of the insurer's right to sue for performance of the contract, the cover may be suspended only thirty days after the insured has been served with formal notice. If the annual premium is payable by instalments, the suspension of the cover, in the event of non payment of one premium instalments, shall be valid until the expiry of the annual period in question. The premium or premium instalment shall be payable at the insurer's premises in all events, after formal notice has been served on the insured.

The insurer shall be entitled to terminate the contract ten days after expiry of the thirty day period referred to in the second paragraph of this Article.

The contract that has not been terminated shall be revived for the future at noon on the day after the premium in arrears or, in the event of the annual premium payable by instalments, the premium instalments that were the subject of the formal notice and those to fall due during the suspension period as well as legal fees and collection charges, have been paid to the insurer or to the representative that it appointed for this purpose.

The provisions of paragraphs 2 to 4 of this Article shall not apply to life insurance.

Article L113-4

(Act n°. 89-1014 of 31 December 1989, Article 11, Official Journal of 3 January 1990 in force on 1 May 1990)

In the event of an increase of the risk during the contract, such that, if new circumstances had been declared at the time of conclusion or of renewal of the contract, the insurer would not have contracted or would have done so only in consideration of a higher premium, the insurer shall be entitled to terminate the contract or to offer a new premium amount.

In the first case, the termination shall take effect only ten days after notice and the insurer must then reimburse the insured for the part of the premium or contribution for the period during which the risk has not incurred. In the second case, if the insured has not followed up on the insurer's offer or if he expressly refuses the new contract within thirty days as from the offer, the insurer may terminate the contract at the end of said time limit, provided that it has informed the insured of such right, by stating it in clear print in the letter of offer.

However, the insurer may no longer complaint of the increase of risks when, after it has been informed thereof, regardless of how it was informed, it expressed its consent to continuation of the insurance, in particular, by continuing to accept premiums or by paying a compensation after a loss.

The insured shall be entitled, in the event of a decrease of the risk during the contract, to a decrease of the amount of the premium. If the insurer does not agree thereto, the insured may terminate the contract. The termination shall then take effect thirty days after the notice of termination. The insurer must then reimburse the insurer for the part of the premium or contribution for the period during which the risk has not been incurred.

The insurer must remind the insured of the provisions of this Article when the insurer informs it either of an increase or a decrease of the risks.

The provisions of this Article shall not apply to life insurance or health insurance when the insured's state of health has changed.

Article L113-5

(Article L81-5 of 7 January 1981, Article 33, I, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

Upon occurrence of the risk or the maturity of the contract, the insurer must perform the service defined in the contract within the agreed time and it may not be committed beyond said time.

Article L113-6

(Act n°. 81-5 of 7 January 1981, Article 31, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981)

(Act n°. 85-98 of 25 January 1985, Article 221, I, Official Journal of 26 January 1985 in force on 1 January 1986)

(Act n°. 89-1014 of 31 December 1989, Article 36, Official Journal of 3 January 1990 in force on 1 July 1990)

The insurance shall subsist in the event of judicial rehabilitation or liquidation proceedings of the insured.

The official receiver or the debtor authorised by the bankruptcy judge or the liquidator as the case may be and the insurer shall retain the right to terminate the contract during a three month period as from the date of the judgement of judicial rehabilitation or liquidation proceedings. The part of the premium for the time during which the insurer no longer covers the risk shall be returned to the debtor.

In the event of judicial liquidation of a firm referred to in Article L310-1, the contracts in its portfolio shall be subject to the provisions of Articles L326-12 and L326-13, as from the order or the decision announcing the withdrawal of the licence.

Article L113-8

(Act n°. 81-5 of 7 January 1981, Article 32, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

Apart from the ordinary causes of nullity and subject to the provisions of Article L132-26, the insurance contract shall be null and void in the event of reluctance or intentional false statement of the insured, when such omission or fraudulent misrepresentation changes the subject of the risk or decreases the insurer's assessment thereof, even if the risk that the insured concealed or distorted has had no impact on the loss.

The insurer shall then be entitled to the premiums paid. It shall be entitled to payment of all due premiums by way of damages.

The provisions of the second paragraph of this Article shall not apply to life insurance.

Article L113-9

If the insured's bad faith has not been proved, omission or misrepresentation by the insured shall not entail the nullity of the insurance.

If this is recorded prior to any loss, the insurer shall be entitled either to continue the contract in consideration of an increase in premium accepted by the insured or to terminate the contract ten days after notice sent to the insured by registered letter by returning the part of the premium paid for the period not covered by the insurance.

In the event that the recording took place only after the loss has occurred, the compensation shall be reduced in proportion to the rate of the premiums paid in relation to the rate of premiums that would be owed if the risks had been truthfully and exhaustively declared.

Article L113-10

In insurance where the premium is calculated either by reason of salaries or on the basis of the number of persons or amount of property covered by the contract, it may be provided that, for any

mistake or omission in the statements serving as a basis to set the premium, the insured must pay, in addition to the amount of the premium, a compensation that may not under any circumstances exceed 50% of the omitted premium.

It may be stipulated that when the mistakes or omissions, due to their nature, extent and repetition, have a fraudulent character, the insurer shall be entitled to take action to recover losses paid by mistake, apart from payment of the compensation provided for above.

Article L113-11

Shall be null and void:

1 All general clauses providing that the insured shall forfeit his rights in the event of violation of laws or regulations, unless such violation constitutes a crime or a deliberate offence.

2 All clauses providing that the insured shall forfeit his rights for simple lateness in reporting the loss to the authorities or submitting documents, without prejudice to the rights for the insurer to claim a compensation in proportion to the damage that it has caused to him.

Article L113-12

(Act n°. 89-1014 of 31 December 1989, Article 12, Official Journal of 3 January 1990 in force on 1 May 1990)

The policy shall specify the duration of the contract and the terms applicable to termination.

However, the insured shall be entitled to terminate the contract at the end of a one year period, by sending the insurer a registered letter at least two months before the expiry date. The insurer shall have the same right on the same terms. Said rule may be waived for individual health insurance contract and for the cover of risks other than those of private persons. The right to terminate the contract every year must be stated in each policy. The period of termination shall start from the date as postmarked.

The provisions of this Article shall not apply to life insurance.

Article L113-14

(Act n°. 81-5 of 7 January 1981, Article 28, II, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

Whenever the insured is entitled to request termination, he may do so, at his discretion, either by declaration made against receipt at the registered office or to the insurer's representative in the area, or by extra judicial instrument or by registered letter, or by any other means stated in the policy.

Article L113-15

(Act n°. 81-5 of 7 January 1981, Article 28, II, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

The term of the contract must be stated in very clear print in the policy.

The policy must also state that the term of the automatic renewal may not under any circumstances exceed one year.

Article L113-16

(Act n°. 89-1014 of 31 December 1989, Article 13, Official Journal of 3 January 1990 in force on 1 May 1990)

In the event of the occurrence of one of the following events:

change of domicile,

change of marital status,

change of matrimonial property regime,

change of occupation,

professional retirement or permanent discontinuation of a professional activity,

each of the parties may terminate the insurance contract when it covers risks directly related to the earlier situation and which are not present in the new situation.

The contract may be terminated only three months after the date of the event.

The termination shall take effect one month after the other party to the contract has received notice thereof.

The insurer must reimburse the insured for the part of the premium or contribution for the period during which the risk was not incurred. Such period shall be calculated as from the effective date of the termination.

Payment of a compensation to the insurer in the aforementioned events of termination may not be provided for.

The provisions of this Article shall not apply to life insurance. They shall apply as from 9 July 1973 to contracts contracted prior to 15 July 1972.

A decree in Conseil d'Etat defines the terms of application of this Article, in particular, the date which, for each of the events listed in the first paragraph, shall be retained as the starting date of the period of termination.

Article L113-17

(inserted by Act n°. 89-1014 of 31 December 1989, Article 14, Official Journal of 3 January 1990 in force on 1 May 1990)

The insurer who takes over the management of a legal action brought against the insured shall also be deemed to have waived all exclusions that it was aware of when it took over management of the legal action.

The insured shall not forfeit his rights or no other penalty shall be imposed on him due to his involvement in the management of a legal action, if it was in his interest to do so.

Chapter IV : Competence and limitation period

Article L114-1

(Act n°. 89-1014 of 31 December 1989, Article 15, Official Journal of 3 January 1990 in force on 1 May 1990)

All legal actions arising from an insurance contract shall be barred two years as from the event that gave rise thereto.

However, said time limit shall run:

1 in the event of non disclosure, omission, fraudulent representation or misrepresentation of the risk incurred, only as from the date on which the insurer is aware thereof,

2 in the event of loss, only as from the date the concerned parties are aware thereof, if they prove that they were unaware of such facts up till then.

When the insured's action against the insurer arises from a third party's recourse, the limitation period shall run only from the date on which said third party brings a legal action against the insured or the latter has paid it compensation.

The limitation period shall be increased to ten years for life insurance contract when the beneficiary is not the policyholder and in insurance contracts covering personal injury when the beneficiaries are the deceased insured's assigns.

Article L114-2

(Act n°. 89-1014 of 31 December 1989, Article 48, Article 51, Official Journal of 3 January 1990 in force on 1 July 1990)

The limitation period shall be interrupted by one of the ordinary causes that interrupt the limitation period and by the appointment of experts following a loss. The limitation period of the legal action may also be interrupted by the insurer sending the insured a registered letter with acknowledgement of receipt in respect of the action for payment of the premium and by the insured to the insurer in respect of the settlement of the claim.

Title II

Rules applicable to non marine loss insurance

Chapter I : General provisions

Article L121-1

Insurance in respect of property is a compensation contract. The compensation that the insurer owes to the insured may not exceed the amount of the value of the insured property at the time of the loss.

It may be provided that the insurer must be his own insurer of a sum or a specific quota or that he shall bear a deduction fixed in advance on the compensation for the loss.

Article L121-2

The insurer shall cover the losses and damage caused by persons for whom the insured is legally liable pursuant to Article 1384 of the Civil Code, regardless of the nature and seriousness of such persons' faults.

Article L121-3

When an insurance contract has been granted for a sum in excess of the value of the insured property, if there has been fraud by one of the parties, the other party may take legal action to void the contract and also claim damages.

If there has been no fraud, the contract shall be valid, but only within the limit of the actual value of the insured property and the insurer shall not be entitled to premiums for the surplus. It shall be definitively entitled only to due premiums and to the premium for the current year when it is maturity.

Article L121-4

(Act n°. 82-600 of 13 July 1982, Article 8, Official Journal of 14 July 1982)

Who he is insured with several insurers under several policies for a same interest against a same risk must immediately inform each insurer of the other insurers.

The insured must, at the time of this communication, notify the name of the insurer with whom another insurance has been contracted and specify the sum insured.

When several insurances against the same risks have been fraudulently contracted, the penalties provided for in the first paragraph of Article L121-3 shall be applied.

When they have been contracted without fraud, each of them shall be valid within the limit of the contract's covers and in compliance with the provisions of Article L121-1, regardless of the date on which the insurance was contracted. Within said limits, the beneficiary of the contract may obtain compensation for his loss by contacting the insurer of his choice.

In the relations between insurers, each insurer's contribution shall be determined by applying the ratio between the compensation that it would be paid if it has been alone and the total amount of the compensation that each insurer would have borne if it had been alone to the amount of the loss.

Article L121-5

If the estimates show that the value of the insured property exceeds the insured sum on the date of the loss, the insured shall be deemed to be his own insurer for the surplus and as a consequence shall bear a proportional share of the loss, unless otherwise agreed.

Article L121-6

Any person who has an interest in safeguarding a property may have it insured.

Any direct or indirect interest in the non occurrence of a risk may be the subject of insurance.

Article L121-7

The insurer shall not be liable for waste materials, decrease or loss sustained by the insured property which is attributable to an inherent defect, unless otherwise agreed.

Article L121-8

The insurer shall not be liable for losses and damage caused either by a foreign war, civil war, riots or by civil commotion, unless otherwise agreed.

When such risks are not covered by the contract, the insured must prove that the loss has been caused by a act other than the foreign war. The insurer shall have the burden of proving that the loss has been caused by civil war, riots or civil commotion.

Article L121-9

In the event of total loss of the insured property caused by an event not provided for in the policy, the insurance shall end ipso jure and the insurer must return to the insured the part of the premium paid in advance for the time during which the risk is no longer incurred.

Article L121-10

(Act n°. 89-1014 of 31 December 1989, Article 13, Official Journal of 3 January 1990 in force on 1 May 1990)

In the event of the death of the insured or transfer of the insured property, the insurance shall continue ipso jure in favour of the heir or buyer, with the onus on the latter to fulfil all of the insured's obligations with regard to the insurer under the contract.

However, the insurer, or the insured or buyer shall be at liberty to terminate the contract.

The insurer may terminate the contract within three months as from the date on which the final beneficiary of the insured property has requested that the policy be transferred to his name.

In the event of transfer of the insured property, the transferor shall be liable to the insurer for payment of due premiums, but he shall be released, even as a guarantor in respect of premiums to fall due, as from the moment he informs the insurer of the transfer by registered letter.

When there are several heirs or buyers, if the insurance continues, they shall be jointly and severally liable for payment of the premiums.

Payment of a compensation to the insurer in the aforementioned events of termination may not be provided for.

The provisions of this Article shall not apply in the event of transfer of a motor vehicle.

Article L121-11

(Act n°. 81-5 of 7 January 1981, Article 34, I, II, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981)

(Act n°. 89-1014 of 31 December 1989, Article 13, Official Journal of 3 January 1990 in force on 1 May 1990)

In the event of transfer of a motor vehicle, its trailers or semi-trailers and only in respect of the transferred vehicle, the insurance contract shall be suspended ipso jure, as from the day after the date of the transfer, at midnight. Each of the parties may terminate the contract subject to ten days' notice.

In the event the contract is not continued by agreement of the parties or by termination by one of them, the termination shall take effect ipso jure at the end of the six month period as of the transfer.

The insured must inform the insurer of the date of transfer by registered letter.

Payment of a compensation to the insurer in the aforementioned events of termination may not be provided for.

All of the provisions of this article shall apply in the event of the transfer of ships or yacht, regardless of the method of motion or of propulsion used.

Article L121-12

The insurer who paid the insurance compensation shall be subrogated within the limit of such compensation in the insured's rights and actions against the third parties who, by their acts, caused the damage that gave rise to the insurer's liability.

The insurer may be released in whole or in part from its liability to the insured when the subrogation is no longer able, by the insured's act, to work in the insurer's favour.

Notwithstanding the above provisions, the insurer shall have no recourse against the children, descendants, ascendants, relations in direct line, officials, employees, workers or servants and in general any person normally living in the insured's home, except in the case of malevolence committed by one of such persons.

Article L121-13

Indemnities owed further to fire, hail, livestock mortality insurance or insurance against other risks shall be allocated, without need for express delegation, to secured creditors or mortgagees, depending on their rank.

Nevertheless, payments made in good faith prior to stoppage of payment shall be valid.

The same shall apply for indemnities owed in the event of loss by the tenant or neighbour pursuant to Articles 1733 and 1382 of the Civil Code.

In the event of insurance of the rental risk or recourse by neighbours, the insurer may not pay all or part of the sum owed to anyone other the owner of the leased property, the neighbour or the third party subrogated in their rights as long as said owner, neighbour or subrogated third party have not received settlement for the consequences of the loss, within the limit of said sum.

Article L121-14

The insured may not abandon the insured property, unless otherwise agreed.

Article L121-15

The insurance shall be null and void if, at the time of the contract, the insured property has already perished or can no longer be exposed to risks.

Premiums paid must be returned to the insured, less costs incurred by the insurer, other than commission, when the latter have been recovered from the agent or broker.

In the cases referred to in the first paragraph of this Article, if a party is proved to have acted in bad faith, it shall owe the other party a sum double the year's premium.

Article L121-16

(inserted by Act n°. 95-101 of 2 February 1995, Article 17, Official Journal of 3 February 1995)

Any insurance contract clauses that aim to subordinate the payment of a compensation in compensation for a loss caused by a natural disaster within the meaning of Article L 125-1 to a developed building to its reconstruction on the spot is deemed non written insofar as a prevention plan for foreseeable natural disasters is applicable to the area.

Article L121-17

(inserted by Act n°. 95-101 of 2 February 1995, Article 90, Official Journal of 3 February 1995)

Apart from the cases referred to in Article L 121-16, indemnities paid in compensation for a loss caused to a developed building must be used to actually refurbish said building or its land in a way that is compatible with the environment of said building.

Any insurance contract clauses that stipulate otherwise shall be null and void on the grounds of public policy.

A municipal bylaw shall stipulate the aforementioned measures in respect of refurbishment within two months after the insurer or insured has notified the loss to the mayor.

Chapter II : Fire insurance

Article L122-1

The fire insurer shall be answerable for all damage caused by a conflagration or simple combustion. However, it shall not be answerable, unless otherwise agreed, for damage caused by the sole action of heat or by the direct and immediate contact of the fire or an incandescent substance if there has been no fire or a start of a fire that is liable to degenerate into a genuine fire.

Article L122-2

The insurer, unless otherwise agreed, shall be answerable for the sole material damage caused directly by the fire or the start of the fire.

If, within three months as from the repair of the loss, the damage survey has not been completed, the insured shall be entitled to have interest accrue as from the demand for payment. If the damage survey has not been completed within six months, each of the parties may bring legal proceedings.

Article L122-3

The material damage caused to property covered by insurance by emergency and salvage measures shall be classed as direct material damage.

Article L122-4

(Act n°. 81-5 of 7 January 1981, Article 28, II, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

The insurer shall be answerable for the loss or disappearance of insured property during the fire, unless it is able to prove that said loss or disappearance is the result of theft.

Article L122-5

The insurer, in compliance with Article L121-7, shall not be answerable for losses and damage to the insured property as a result of an inherent defect, but it shall cover the damage caused by fire as a result of the inherent defect unless it is substantiated in bringing a legal action to nullify the insurance contract pursuant to the first paragraph of Article L113-8.

Article L122-6

Unless otherwise agreed, the insurance shall not cover fires caused directly by volcanic eruptions, earthquakes and other disasters.

Article L122-7

(Decree n°. 90-509 of 25 June 1990, Article 1, Official Journal of 27 June 1990)

(Act n°. 91-5 of 3 January 1991, Article 34, Official Journal of 6 January 1991)

(Act n°. 2000-1207 of 13 December 2000, Article 13, Official Journal of 14 December 2000)

(Act n°. 2001-602 of 9 July 2001, Article 68, Official Journal of 11 July 2001)

The insured shall be entitled under insurance contracts covering damage caused by fire or any other damage to property located in France as well as damage to the hulls of motor vehicles to cover against the effects of wind attributable to storms, hurricanes and cyclones on property covered by such contracts. The effects of wind attributable to a cyclone in respect of which the maximum surface winds recorded or estimated on the damaged area have reached or exceeded 145 kilometres an hour on average over ten minutes or 215 kilometres an hour in gusts, which fall within the scope of the provisions of Articles L125-1 et seq. of this Code, shall be excluded from such contracts.

Contracts covering damage caused by fire to not-harvested crops, to non-housed cultivation and livestock shall be excluded.

Contracts covering damage caused by fire to growing wood shall also be excluded.

In addition, if the insured is covered against business interruption, said cover shall be extended to the effects of storms, hurricanes or cyclones in accordance with the terms of the relevant contract.

Chapter III : Hail and livestock mortality insurance

Article L123-1

(Act n°. 81-5 of 7 January 1981, Article 28 II, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

In respect of hail insurance, unless there has been a contractual extension of the time limit, the insured must send the report of loss within four days of the occurrence of the loss, save by unforeseen accident or act of God.

In respect of livestock mortality insurance, said time limit is reduced to twenty four hours, subject to the same reservations.

Article L123-2

In the cases referred to in Article L121-9, the insurer may not claim the part of the premium for the period between the date of the loss and the date on which the crops should normally have been reaped or that of the end of the cover set in the contract, if the latter date predates the normal crop reaping date.

Article L123-3

After transfer either of the real property or proceeds, in the event the insurer serves the buyer with notice of termination of the contract, the termination shall take effect only upon the expiry of the current insurance year. However, when the premium is payable in instalments, the seller shall forfeit the right to pay by instalment in respect of the premium for said period.

Article L123-4

In respect of livestock mortality insurance, the insurance, which has been suspended by reason of non payment of the premium, in accordance with the terms of Article L113-3, shall be revived no later than the tenth day at noon, as from the date on which the premium in arrears and, where applicable, costs, have been paid to the insurer. The insurer may exclude losses following accidents and illness occurring during the cover suspension period from its cover.

Chapter IV : Liability insurance

Article L124-1

In respect of liability insurance, the insurer shall be liable only if, following a tort provided for in the contract, the injured third party makes an out of court claim or a court claim to the insured.

Article L124-2

The insurer may stipulate that no acknowledgement of liability or no settlement shall be binding on it, without its involvement. The admission of material facts may be treated as an acknowledgement of liability.

Article L124-3

The insurer may not pay anyone other than the injured third party any part of the sum that it owes as long as said third party has not received settlement within the limit of said sum for the pecuniary consequences of the tort that entailed the insured's liability.

Article L124-4

In the case provided for in Article L 25-1 of the Traffic Regulations, as stated in said Article:

“the insurer of the owner of a vehicle shall be bound to cover, within the limits of the contract, the repair of the damage caused to the third party, save recourse, where applicable, against the public authorities which, by their acts, caused the damage which gave rise to the insured's liability and without the owner having to entail an increase in the premium as a result thereof. A decision shall be made on said recourse and on any legal action for damages in the event of non insurance of the vehicle in accordance with the terms of Article 1 of Act n°. 57-1424 of 31 December 1957.”

Chapter V : Natural disasters insurance

Article L125-1

(Decree n°. 85-863 of 2 August 1985, Article 1, Official Journal of 15 August 1985)

(Act n°. 92-665 of 16 July 1992, Article 34, Official Journal of 17 July 1992)

The insured shall be entitled under insurance contracts contracted by any individuals or legal entities other than the State and covering damage caused by fire or any other damage to property located in France as well as to damage to hulls of motor vehicles to cover against the effects of natural disasters on the property covered by such contracts.

In addition, if the insured is covered for business interruption, said cover shall be extended to the effects of natural disasters, in accordance with the terms of the relevant contract.

Non insurable direct material damage whose determining cause was the abnormal intensity of a natural agent, when normal measures to be taken to protect against such damage have been unable to prevent the occurrence thereof or could not be taken shall be deemed to be natural disasters within the meaning of this chapter.

The state of natural disaster shall be recorded by inter ministerial order which shall determine

the areas and the periods of the occurrence of the disaster and the nature of the damage as a result thereof covered by the cover referred to in the first paragraph of this Article.

Article L125-2

(inserted by Decree n°. 85-863 of 2 August 1985, Article 1, Official Journal of 15 August 1985)

Insurance firms must insert a clause that extends their cover to the damage referred to in the third paragraph of said Article in the contracts referred to in Article L125-1.

The cover thus established may not exclude any of the property mentioned in the contract or make any reduction other than those set in the standard clauses provided for in Article L125-3.

It shall be covered by an additional premium or contribution which shall be tailored to particular requirements in the premium debit note of the contract referred to in Article L125-1 and it shall be calculated on the basis of a sole rate defined by order for each contract category. Said rate shall be applied to the amount of the main premium or contribution or to the amount of the insured capital, depending on the contract category.

Compensations pursuant to said cover must be allocated within three months as from the date of the submission of the estimate of damaged property or of losses sustained, without prejudice to more favourable contractual provisions or the date of publication of the administrative decision recording the state of natural disaster when it is published at a later date.

Article L125-3

(inserted by Decree n°. 85-863 of 2 August 1985, Article 1, Official Journal of 15 August 1985)

Notwithstanding any provision to the contrary, contracts referred to in Article L125-1 shall be deemed to contain such a clause.

Standard clauses that are deemed to be included in said contracts shall be determined by order (arrêté).

Article L125-4

(Decree n°. 85-863 of 2 August 1985, Article 1, Official Journal of 15 August 1985)

(Act n°. 90-509 of 25 June 1990, Article 2, Official Journal of 27 June 1990 in force on 1 August 1990)

(inserted by Act n°. 92-665 of 16 July 1992, Article 35, Official Journal of 17 July 1992)

Notwithstanding any provision to the contrary, the cover referred to in Article L125-1 of this Code includes the reimbursement of the cost of geotechnics studies rendered necessary prior to repairing constructions affected by the effects of a natural disaster.

Article L125-5

(inserted by Decree n°. 85-863 of 2 August 1985, Article 1, Official Journal of 15 August 1985)

Shall be excluded from the scope of this chapter the damage caused to non gathered crops, cultivation, soil and livestock outside premises. The compensation thereof is always governed by the provisions of Act n°. 64-704 of 10 July 1964, as amended, which organises a cover scheme against agricultural disasters.

Damage sustained by the hulls of air, marine, lake and inland waterway vehicles as well as goods in transit and the damage referred to in Article L242-1 shall also be excluded from the scope of this chapter.

Insurance contracts covering the damage referred to in the previous paragraphs shall not be subject to payment of an additional premium or contribution.

Article L125-6

(Decree n°. 85-863 of 2 August 1985, Article 1, Official Journal of 15 August 1985)

(Act n°. 94-5 of 4 January 1994, Article 24 IV, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 94-679 of 8 August 1994, Article 80, Official Journal of 10 August 1994)

(Act n°. 95-101 of 2 February 1995, Article 19, Official Journal of 3 February 1995)

On land on which building is prohibited by the prevention plan for foreseeable natural risks approved in accordance with the terms of Act n°. 87-565 of 22 July 1987 relating to the organisation of the emergency services, the protection of the forest against fire and the prevention of major risks, the obligation provided for in the first paragraph of Article L125-2 shall not be binding on insurance firms with regard to property and activities referred to in Article L125-1, apart, however, from property and activities existing prior to the publication of said plan.

Neither shall said obligation be binding on insurance firms with regard to real property built and activities carried on in breach of current administrative regulations when they were established and which aim to prevent the damage caused by a natural disaster.

However, insurance firms may escape from said obligation only upon conclusion of the initial contract or upon its renewal.

Having regard to property and activities located on land covered by a risk prevention plan, insurance firms may exceptionally depart from the provisions of the second paragraph of Article L125-2 further to a decision by a central rating office, of which the terms applicable to foundation and operation are defined by decree in Conseil d'Etat, when the owner or operator has not complied within five years with the measures referred to in paragraph 4 of Article 40-1 of aforementioned Act n°. 87-565 of 22 July 1987.

The central rating office shall define special reductions whose maximum amounts shall be determined by order (arrêté), depending on the contract category.

When two insurance firms have refused to apply the provisions of this chapter for an insured, he may submit such refusal to the central rating office which shall compel one of the insurance firms in question, chosen by the insured, to cover him against the effects of natural disasters.

Any insurance firm that continues to refuse to cover the insured in accordance with the terms defined by the central rating office shall be deemed to no longer operate in compliance with current regulations and its licence provided for under Articles L321-1 or L321-7 to L321-9 shall

be withdrawn.

Chapter VI Insurance against acts of terrorism

Section I : Bodily injury

Article L126-1

(Act n°. 90-589 of 6 July 1990, section 12, Official Journal of 11 July 1990 in force on 1 January 1991)

The victims of terrorist attacks perpetrated on the national territory and French nationals victims abroad of such same acts shall be indemnified in accordance with the terms defined in Articles L422-1 to L422-3.

Compensation may be refused or the amount thereof reduced in case of the victim's fault.

Section II : Material damage

Article L126-2

Property insurance contracts may not exclude the insurer's cover for damage as a result of terrorist attacks or bombing perpetrated on the national territory. Any clause to the contrary shall be deemed non written.

A decree in Conseil d'Etat shall define the provisions for the application of this Article.

Chapter VII : Legal expense insurance

Article L127-1

(inserted by Act n°. 89-1014 of 31 December 1989, Article 5, Official Journal of 3 January 1990 in force on 1 July 1990)

Any transactions that consists, in consideration of the payment of a previously agreed premium or a contribution, in covering the costs of proceedings or in providing services arising from the insurance cover in the event of a dispute or litigation between the insured and a third party, with a view, in particular, of defending or representing the insured as a claimant in civil, criminal, administrative or other proceedings or against a claim brought against him or to obtain out of court compensation for the loss sustained shall be deemed to be a legal expense insurance transaction.

Article L127-2

(inserted by Act n°. 89-1014 of 31 December 1989, Article 5, Official Journal of 3 January 1990 in force on 1 July 1990)

The legal expense insurance shall be covered by a contract separate from that drawn up for the other classes or a separate chapter of a sole policy, which specifies the content of the legal expense insurance and the relevant premium.

Article L127-3

(inserted by Act n°. 89-1014 of 31 December 1989, Article 5, Official Journal of 3 January 1990 in force on 1 July 1990)

All legal expense insurance contracts shall explicitly stipulate that, when a lawyer or any other person qualified under current law or regulations is called on to defend, represent or serve the insured's interests in the circumstances provided for in Article L 127-1, insured shall be free to choose such person.

The contract shall also stipulate that the insured shall be free to choose a lawyer of, if he prefers, a qualified person to assist him whenever a conflict of interests arise between him and the insurer.

No contract clause shall interfere with the insured's freedom of choice, within the cover limit, under the previous two paragraphs.

Article L127-4

(inserted by Act n°. 89-1014 of 31 December 1989, Article 5, Official Journal of 3 January 1990 in force on 1 July 1990)

The contract shall stipulate that in the event of disagreement between the insurer and the insured concerning the measures to be taken to settle a dispute, such difficulty may be referred to the assessment of a third party appointed by mutual agreement of the parties or, for want of such agreement, by the presiding judge of the tribunal de grande instance ruling in summary proceedings. The insurer shall bear the costs incurred to implement such right. However, the presiding judge of the tribunal de grande instance, ruling in summary proceedings, may decide otherwise when the insured implemented such right in abusive conditions.

If the insured brought contentious proceedings at his expense and obtains a more favourable solution than that proposed by the insurer or the third party mentioned in the previous paragraph, the insurer shall indemnify the insured for the costs incurred in bringing such legal action, within the limit of the cover amount.

When the proceedings referred to in the first paragraph of this Article are implemented, the time limit for the contentious proceedings shall be suspended for all courts covered by the insurance cover and that the insured is liable to bring as a claimant until the third party in charge of proposing a solution has notified the purport thereof.

Article L127-5

(inserted by Act n°. 89-1014 of 31 December 1989, Article 5, Official Journal of 3 January 1990 in force on 1 July 1990)

In the event of a conflict of interest between the insurer and the insured or disagreement in respect of the settlement of the dispute, the legal expense insurer shall inform the insured of the right referred to in Article L127-3 and of the possibility of turning to the proceedings referred to in Article L127-4.

Article L127-6

(inserted by Act n°. 89-1014 of 31 December 1989, Article 5, Official Journal of 3 January 1990 in force on 1 July 1990)

The provisions of this chapter shall not apply to:

1 legal expense insurance when it concerns litigation or risks arising from use of a seagoing vessels or vessels connected with such use.

2 the activity of the insurer in public liability for the defence or representation of its insured in all court or administrative proceedings when carried on at the same time in the insurer's interest.

Article L127-7

(Act n°. 89-1014 of 31 December 1989, Article 5, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-1336 of 16 December 1992, Article 333, Official Journal of 23 December 1992 in force on 1 March 1994)

Persons who need to know the information provided by the insured for the requirements of its case, within the scope of a legal expense insurance contract shall be bound by professional secrecy in accordance with the terms and subject to the penalties laid down in Article 226-13 of the Penal Code.

Title III

Rules applicable to insurance of persons and to capitalisation transactions

Chapter I : General provisions

Article L131-1

(Act n°. 81-5 of 7 January 1981, Article 1, I, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 89-1014 of 31 December 1989, Article 37, II, Article 50, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 22, Official Journal of 17 July 1992)

In respect of life insurance and personal injury insurance, the sums insured shall be defined by contract.

In respect of life insurance or capitalisation, the capital or annuity insured may be expressed in

unit linked terms comprised of investment securities or assets offering adequate protection of the savings invested and appearing on a list drawn up by decree in Conseil d'Etat. The contracting party or the beneficiary shall obtain payment in cash. He may, however, opt for the delivery of securities or shares when they are marketable and do not directly grant the right to vote at the general meeting of shareholders of a company listed on a stock exchange.

Article L131-2

(Act n°. 92-665 of 16 July 1992, Article 21, Article 23, Official Journal of 17 July 1992)

In respect of personal injury insurance, the insurer, after payment of the sum insured, may be subrogated in the rights of the contracting party or beneficiary against third parties due to the loss.

However, in contracts covering the compensation of losses as a result of personal injury, the insurer may be subrogated in the rights of the contracting party or assigns against the third party liable for reimbursement of compensatory benefits provided for in the contract.

Article L131-3

(Act n°. 92-665 of 16 July 1992, Article 21, Article 23, Official Journal of 17 July 1992)

When the transactions defined in Article 14 of Act n°. 72-6 of 3 January 1972 relating to the selling of financial services and insurance transactions are associated with personal injury insurance transactions, the insured, by virtue of his exercising the right of termination provided for in Article 21 of the same Act, shall terminate the cover. The insured shall be entitled, where applicable, to reimbursement of the premium or portion of the premium for the period not covered by the cover.

Chapter II Life insurance and capitalisation transactions

Section I : General provisions

Article L132-1

(Act n°. 81-5 of 7 January 1981, Article 3, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 42, Official Journal of 17 July 1992)

A person's life may be insured by oneself or by a third party.

Several persons may contract mutual insurance on each other lives in a sole and same instrument.

Article L132-2

(Act n°. 81-5 of 7 January 1981, Article 3, Official Journal of 8 January 1981, corrigendum,

Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 42, Official Journal of 17 July 1992)

Death benefit insurance contracted by a third party on the life of the insured shall be null and void if the latter has not consented thereto in writing with indication about the amount of the capital or annuity initially covered.

Under pain of nullity, the insured's consent must be given in writing for any assignment or giving of pledge and for the transfer by a third party of the benefit of the contract signed on his life.

Article L132-3

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

(Act n°. 92-1336 of 16 December 1992, Article 322, Article 323, Official Journal of 23 December 1992 in force on 1 March 1994)

All persons shall be prohibited from contracting a death benefit insurance on the life of a minor under twelve years of age, a person of full age put in wardship or a person placed in a psychiatric hospital.

Any insurance contracted in breach of said prohibition shall be null and void.

The nullity shall be decided at the request of the insurer, policyholder or the representative of the legally disabled person.

Premiums paid must be returned in full.

The insurer and the policyholder shall also be liable to a fine of FRF 30,000 for each insurance knowingly contracted in breach of said prohibition.

Said provisions shall not in any way prevent reimbursement in the death benefit insurance of premiums paid in performance of a life insurance contract contracted on the life of one of the persons referred to in the first paragraph above.

Article L132-4

(Act n°. 62-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

A death benefit contract may not be contracted by another person on the life of a minor who has reached twelve years of age, without the authorisation of the parent(s) with parental authority, his tutor or guardian.

Even with such authorisation, the personal consent of the incapable person shall still be required.

For lack of such authorisation and consent, the nullity of the contract shall be declared at the request of any interested person.

Article L132-5

(Act n°. 81-5 of 7 January 1981, Article 5, Official Journal of 8 January 1981, corrigendum,

Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Article 25, Official Journal of 17 July 1992)

The life insurance contract and the capitalisation contract must contain clauses that aim, for the security of the parties and the clarity of the contract, to define the purpose of the contract and the respective obligations of the parties, based on information specified by decree in Conseil d'Etat.

Article L132-5-1

(Act n°. 81-5 of 7 January 1981, Article 221, II, Official Journal of 8 January 1981, corrigendum Official Journal of the French Republic of 8 February 1981 in force on 1 July 1981)

(Act n°. 85-608 of 11 June 1985, Article 1, Official Journal of 20 June 1985 in force on 1 January 1986)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Article 26, Article 30, I, IV, Official Journal of 17 July 1992)

(Act n°. 94-5 of 4 January 1994, Article 7, I, Article 35, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

Any individual who has signed an insurance offer or a contract shall be entitled to withdraw therefrom by registered letter with acknowledgement of receipt requested during a thirty day period, as from the first payment.

The insurance offer or contract must include a draft letter designed to facilitate the exercise of said right of termination. In particular, it must at least state the surrender value at the end of each of the first eight years for contracts containing such letters. The insurance or capitalisation firm must also deliver against receipt a prospectus on the main provisions of the contract, on the terms of exercise of the right of withdrawal, and on what happens to the death benefit cover in the event of exercise of said right of withdrawal. The non delivery of the documents and information listed in the first paragraph shall ipso jure entail the extension of the time limit provided for in the first paragraph up to the thirtieth day following the date of the actual delivery of said documents. A new thirty day period shall run as from the date of receipt of the contract when it makes reservations or essential changes to the initial offer or as from the written acceptance by the policyholder of said reservations or changes.

The withdrawal shall entail the return by the insurance or capitalisation firm of all sums paid by the contracting party within a maximum thirty day period as from receipt of the registered letter. After said time limit, the sums that have not been returned shall bear interest ipso jure at the legal interest rate, which shall be increased by 50% during two months, then, upon expiry of said two month period, it shall be doubled.

The above provisions shall not apply to contracts for a maximum term of two months. The provisions shall be specified, as required, by ministerial order.

Article L 132-6

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

Life insurance policies may be to order. They may not be bearer policies.

The endorsement of a life insurance policy to order must, under pain of nullity, be dated, state the name of the beneficiary of the endorsement and be signed by the endorser.

Article L132-7

(Act n°. 81-5 of 7 January 1981, Article 6, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

(Act n°. 98-546 of 2 July 1998, Article 80, Official Journal of 3 July 1998)

The death benefit insurance shall be of no effect if the insured intentionally and knowingly commits suicide during the first year of the contract.

Said provisions shall not apply to the contracts referred to in Article L140-1 contracted by the institutions referred to in the last paragraph of Article L140-6.

Article L132-8

(Act n°. 81-5 of 7 January 1981, Article 7, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

The capital or annuity insured may be payable upon the death of the insured to one or more specific beneficiaries.

A provision, whereby the benefit of the insurance is allocated to one or more persons who, without being named, are sufficiently identified in said provision to be able to be identified at the time of the payability of the capital or annuity insured, shall be deemed to have been stipulated in favour of specific beneficiaries.

The designation of the following beneficiaries shall, in particular, be deemed to satisfy such condition:

children of the contracting party, insured or any other designated person born or to be born, the heirs or assigns of the insured or of a predeceased beneficiary.

Insurance contracted in favour of the spouse shall benefit the person who has such capacity at the time of payability.

The heirs, thus designated, shall be entitled to benefit from the insurance in proportion to their due portion of inheritance. They shall retain such right in the event of waiver of inheritance.

Where no beneficiary is designated in the policy or the beneficiary has not expressed his acceptance of the policy, the contracting party shall be entitled to designate a beneficiary or to substitute one beneficiary for another. Under pain of nullity, such designation or substitution may be made only with the insured's consent when the insured is not the contracting party. Such designation or substitution may be made either by rider to the contract or by carrying out the formalities laid down in Article 1690 of the Civil Code, or by endorsement when the policy is to order or by making a will.

Article L132-9

(Act n°. 81-5 of 7 January 1981, Article 8, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

The provision whereby the benefit of the insurance is allocated to a specific beneficiary becomes irrevocable upon the beneficiary's express or implied acceptance thereof.

As long as there has been no acceptance, the person making the provision shall be solely entitled to revoke said provision, and as a consequence his creditors or legal representatives may not exercise such right during his lifetime.

His heirs may exercise said right of revocation after the death of the person who made the provision only after the payability of the sum insured and at the earliest three months after the beneficiary of the insurance has been served with a formal demand by extra judicial instrument to state whether he accepts the benefit of the insurance.

The allocation, without consideration, of the benefit of life insurance to a specific person shall be presumed to have made on the condition that the beneficiary exists at the time of the payability of the capital or annuity insured, unless the terms of the provision provide otherwise.

Article L132-10

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

Insurance policies may be pledged either by rider or by endorsement as a security, if it is to order, or by instrument subject to the formalities of Article 2075 of the Civil Code.

Article L132-11

(Act n°. 81-5 of 7 January 1981, Article 9, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

When death benefit insurance is contracted without designation of a beneficiary, the capital or rent insured shall be part of the assets or estate of the contracting party.

Article L132-12

(Act n°. 81-5 of 7 January 1981, Article 9, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

The capital or annuity stipulated to be payable upon the insured's death to a specific beneficiary or to his heirs shall not be part of the insured's estate. The beneficiary, regardless of the form and

date of his designation, shall be deemed to have been entitled thereto as from the date of the contract, even if his acceptance thereof is subsequent to the insured's death.

Article L132-13

(Act n°. 81-5 of 7 January 1981, Article 9, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

The capital or annuity payable, upon the death of the contracting party, to a predetermined beneficiary shall be subject to neither to the rules applicable to the returning of property to the deceased's estate nor to those applicable to the reduction for undermining the portion of the estate allocated by law to the heirs of the contracting party.

Neither shall said rules apply to sums that the contracting party pays in premiums, unless they have been clearly excessive having regard to his possibilities.

Article L132-14

(Act n°. 81-5 of 7 January 1981, Article 9, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 85-98 of 25 January 1985, Article 221, II, Official Journal of 26 January 1985 in force on 1 January 1986)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

The contracting party's creditors may not claim the capital or annuity insured in favour of a specific beneficiary. The contracting party's creditors shall be solely entitled to the reimbursement of their premiums, in the case specified in the second paragraph of Article L132-13, pursuant either to Article 1167 of the Civil Code or Articles 107 and 108 of Act n°. 85-98 of 25 January 1985 in relation to the judicial rehabilitation or liquidation proceedings of firms.

Article L132-15

(Act n°. 81-5 of 7 January 1981, Article 10, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

Any beneficiary, after he has accepted the provision made in his favour and if the assignability of said right has been expressly provided for or with the consent of the contracting party or the insured, may himself transfer the benefit of the contract either by an assignment in the form of Article 1690 of the Civil Code or, if the policy is to order, by endorsement.

Article L132-16

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

The benefit of the insurance contracted by a spouse married under the regime of joint ownership of property comprising all property, present and future, in favour of his/her spouse, shall constitute such spouse's private property.

No award needs to be made to the communal estate by reason of premiums that it has paid, save in the cases specified in the second paragraph of Article L132-13.

Article L132-17

(Act n°. 81-5 of 7 January 1981, Article 11, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 85-98 of 25 January 1985, Article 221, III, Article 233, Official Journal of 26 January 1985 in force on 1 January 1986)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

Articles 112 and 114 of aforementioned Act n°. 85-98 of 25 January 1985 in respect of the rights of the spouse of the debtor affected by judicial rehabilitation proceedings shall not apply in the event of life insurance contracted by that a trader in favour of his/her spouse.

Article L132-18

(Act n°. 81-5 of 7 January 1981, Article 12, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

In the event of omission or misrepresentation referred to in Article L113-8, if the insured intentionally and knowingly committed suicide during the period referred to in Article L132-7 or when the contract excludes the death benefit insurance for the cause of death, the insurer shall pay the contracting party or, in the event of the insured's death, the beneficiary, a sum equal to the mathematical reserve of the contract.

Article L132-19

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

Any interested party may substitute himself for the contracting party to pay the premiums.

Article L132-20

(Act n°. 81-5 of 7 January 1981, Article 13, I, II, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 89-1014 of 31 December 1989, Article 52, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 27, I, Article 30, I, Official Journal of 17

July 1992)

An insurance or a capitalisation firm may not bring an action to demand payment of premiums.

When a premium or part of a premium is not paid within ten days of its due date, the insurer shall send the contracting party a registered letter in which it shall inform the insured that upon expiry of a forty day period as from the date of posting said letter, the non payment to the insurer or its appointed representative of the premium or part of the premium due and any premiums to fall due during said period shall entail either the termination of the contract in the event of the absence or inadequacy of the surrender value or the reduction of the contract.

The posting of the registered letter by the insurer renders the premium payable at the insurer's premises in any event.

Non payment of a contribution owed under a capitalisation contract may be penalised only by the suspension or pure and simple termination of the contract and, in the latter case, the surrender value that said contract has possibly acquired shall be made available to the bearer.

Article L132-21

(Act n°. 81-5 of 7 January 1981, Article 15, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 85-608 of 11 June 1985, Article 3, Official Journal of 20 June 1985 in force on 1 January 1986)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Article 27, II, Article 30, I, Official Journal of 17 July 1992)

The methods of calculating the surrender value and, where applicable, the reduction value shall be determined by a general rule specified in the policy and drawn up by the insurance or capitalisation firm.

As soon as the contract is signed, the insurance or capitalisation firm shall inform the contracting party that said general rule is at his disposal upon request. The insurance or capitalisation firm must provide the contracting party, upon his request, with a text of the general rule.

The insurer may grant the contracting party advances within the limit of the surrender value.

The insurance or capitalisation firm must, upon the contracting party's request, pay the latter the surrender value of the contract within a period that may not exceed two months. After said time limit, the unpaid sums shall bear interest ipso jure at the legal interest rate, which shall be increased by 50% during two months, then, upon expiry of said two month period, it shall be doubled.

Article L132-22

(Act n°. 81-5 of 7 January 1981, Article 16, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 85-608 of 11 June 1985, Article 4, I, Official Journal of 20 June 1985 in force on 1 January 1986)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Article 30, I, II, Official Journal of 17 July 1992)

In respect of contracts signed or transformed since 1 January 1982 and as long as premiums are paid thereon, the insurance or capitalisation firm must inform the contracting party each year of the respective amounts of the surrender value, where applicable, the reduction value, of capital insured and the contract premium and, in respect of contracts signed or transformed since 1 January 1992 whose covers are expressed in unit linked terms, the value in unit linked terms and the yearly change thereof as from the date on which the contract was signed.

Said amounts may not factor in profit-sharing that has not been permanently allocated.

The insurance or capitalisation firm must clearly and precisely specify the purport of surrender and reduction transactions and the legal and contractual consequences thereof in the communication.

In respect of contracts on which premiums are not paid and in respect of contracts signed or transformed prior to 1 January 1982, the information referred to above shall be communicated to the contracting party for a given year, only upon the latter's request.

The contract must refer to the disclosure obligation provided for in the previous paragraphs.

Article L132-23

(Act n°. 81-5 of 7 January 1981, Article 18, I, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 85-608 of 11 June 1985, Article 6, I, Official Journal of 20 June 1985 in force on 1 January 1986)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Article 29, Article 30, VI, Official Journal of 17 July 1992)

Temporary death benefit insurance and immediate annuities or annuities in the course of service may not include reduction or surrender. Survival capital and contingent survivorship insurance, life insurance without counter insurance and deferred annuities without counter insurance may not include surrender.

Group life insurance contract whose benefits are related to the discontinuation of professional activity shall not include the possibility of surrender. However, said contract must provide for a right of surrender when one or more of the following events occur:

- expiry of the insured's right to unemployment benefit insurance provided for in the Labour Code in the event of dismissal,
- discontinuation of the non wage earning activity of the insured as a result of a judgement in respect of liquidation pursuant to the provisions of Act n°. 85-98 of 25 January 1985 relating to the judicial rehabilitation and liquidation of firms,
- disability of the insured corresponding to classification in the second and third categories provided for in Article L341-4 of the Health Insurance Code.

Group life insurance whose benefits are related to the discontinuation of professional activity must include a transferability clause.

In respect of other life insurance, the insurer may refuse the reduction or surrender when 15 per

cent of the premiums or contributions provided for in the contract have been paid. The right to surrender or reduction shall be acquired when at least two annual premiums have been paid.

The insurer may of its own motion substitute the surrender for the reduction if the surrender value of the contract is less than an amount defined by decree.

In respect of capitalisation, the insurer may not refuse the surrender when 15 per cent of the premiums or contributions provided for in the contract have been paid. In any event, the right to surrender shall be acquired when at least two annual premiums have been paid.

Article L132-24

(Act n°. 81-5 of 7 January 1981, Article 19, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

The insurance contract shall cease to have effect with regard to the beneficiary who has been sentenced by a court for the murder of the insured.

The insurer must pay the contracting party or his assigns the amount of the mathematical reserve unless they have been sentenced by a court as the perpetrators or accomplices to the murder of the insured.

If the beneficiary attempted to murder the insured, the contracting party shall be entitled to revoke allocation of the benefit of the insurance even if the beneficiary has already accepted the clause made in his favour.

Article L132-25

(Act n°. 81-5 of 7 January 1981, Article 20, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

When the insurer had no knowledge of the designation of the beneficiary by will or otherwise or of the acceptance of another beneficiary or of the revocation of a designation, payment of the capital or annuity insured to the party who would be entitled thereto, without such designation, acceptance or revocation, shall constitute discharge for the insurer acting in good faith.

Article L132-26

(Act n°. 81-5 of 7 January 1981, Article 21, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

An error in regard to the age of the insured shall entail the nullity of insurance only when his actual age is outside the limits set for the conclusion of contracts according to the insurer's rates.

In any other event, if, as a result of an error of this type, the premium paid is inferior to what should have been paid, the capital or annuity insured shall be reduced in proportion to the

premium paid or that which would have corresponded to the actual age of the insured. If, on the contrary, as a result of an error in regard to the age of the insured, excessive premium has been paid, the insurer shall be bound to return the part of the premium overpaid, without interest.

Section IV : Insurance for the purpose of real property purchase by means of life annuities

Article L132-30

(Act n°. 92-665 of 16 July 1992, Article 21, Article 24, Official Journal of 17 July 1992)

(Act n°. 94-5 of 4 January 1994, Article 34 V, Official Journal of 5 January 1994 in force on 1 July 1994)

Contracts in respect of real property purchase transactions by means of life annuities shall be governed by the provisions of this Article.

The annuity holders shall individually retain the lien provided for under paragraph 1 of Article 2103 of the Civil Code for the service of their annuities on the assigned building, even if agreed otherwise.

If there are heirs in direct line to the annuity holders, the latter may deal with the insurer only after they have been authorised to do so by judgement handed down in court chambers upon an ordinary application.

The estimate of the actual value, in full ownership, of the assigned buildings shall be expressly stated in the annuity contracts and confirmed by an expert, appointed by the tribunal de grande instance of the jurisdiction where the said building are located, to be genuine and real. The certificate signed by the expert shall appear in the contracts.

Article L132-31

Any concerned party and the public prosecutor may request the nullity of contracts in which one of the requirements of Article L132-30 has not been complied with.

Title IV

Group insurance

Sole chapter

Article L140-1

(Act n°. 81-5 of 7 January 1981, Article 35, Official Journal of 8 January 1981, corrigendum, Official Journal of the French Republic of 8 February 1981)

(Act n°. 89-1014 of 31 December 1989, Article 16, Official Journal of 3 January 1990 in force on 1 May 1990)

The contract signed by a legal entity or a company director with a view to enrolling a group of persons that satisfy the criteria defined in the contract to cover risks that depend on the duration of

human life, risks related to physical integrity of a person, to maternity, risks of incapacity or invalidity or unemployment shall constitute a group contract.

Members must have a relationship of the same nature with the policyholder.

Article L140-2

(inserted by Act n°. 89-1014 of 31 December 1989, Article 16, Official Journal of 3 January 1990 in force on 1 May 1990)

The sums that the member owes the policyholder under the insurance must be itemised separately from those that he may owe him, otherwise, under another contract.

Article L140-3

(inserted by Act n°. 89-1014 of 31 December 1989, Article 16, Official Journal of 3 January 1990 in force on 1 May 1990)

The policyholder may exclude a member from the benefit of the group insurance contract only if the relationship between them has been broken or if the members cease to pay the premium.

The exclusion shall be effective only at the end of a forty day period after the policyholder has sent a registered letter containing a formal demand. Said letter may be sent only ten days at the earliest after the date on which the sums owed must be paid.

At the time of default notice, the policyholder shall inform the member that, upon expiry of the time limit provided for in the previous paragraph, non payment of the premium is liable to entail his exclusion from the contract.

Said exclusion may not preclude, where appropriate, the payment of benefits earned in consideration of premiums or contributions previously paid by the insured.

Article L140-4

(inserted by Act n°. 89-1014 of 31 December 1989, Article 16, Official Journal of 3 January 1990 in force on 1 May 1990)

The policyholder shall be bound to:

- deliver to the member a prospectus drawn up by the insurer, which defines the covers and the provisions for the application thereof together with the formalities to be carried out in the event of loss,
- inform the members in writing of changes, where applicable, which are planned to be made to their rights and obligations.

The policyholder shall have the burden of proving that it delivered the prospectus and information relating to contractual amendments to the member.

The member may terminate his membership due to such amendments.

However, the member shall have no such right of termination when the bond that ties him to the policyholder renders membership of the contract compulsory.

Group insurance for the purpose of guaranteeing the repayment of a loan, which is governed by special laws, shall not be governed by the provisions of this Article.

Article L140-5

(transferred by Act n°. 89-1014 of 31 December 1989, Article 16, Official Journal of 3 January 1990 in force on 1 May 1990)

As an exception to the provisions of Articles L132-2 and L132-3, the legal representative of a person of full age put under wardship may join a group death benefit insurance contract in the latter's name which has been entered into for the performance of an employment contract or a company agreement.

Article L140-6

(inserted by Act n°. 94-679 of 8 August 1994, Article 5, I, Official Journal of 10 August 1994)

In respect of group insurance contracts within the meaning of Article L140-1, other than those governed by title I of Act n°. 89-1009 of 31 December 1989, which reinforces the covers offered to insured persons against certain risks, and for mutual capitalisation contracts with the same features as the group contracts within the meaning of Article L140-1, the policyholder shall be deemed, for both memberships of the contract and for the performance thereof, to act with regard to the member, the insured and the beneficiary as the representative of the insurance firm with which the contract was signed, with the exception of acts of which the member was previously informed, in accordance with the terms defined by the minister of the economy, which the policyholder is not empowered to fulfil. In the event of the dissolution or liquidation of the policyholder institution, the contract shall continue ipso jure between the insurance firm and the persons who had previously joined the group contract.

This Article shall not apply to life insurance contracts whose benefits are related to the discontinuation of professional activity that a company or a group of companies have signed in favour of their employees or by a professional group representing firms in favour of their employees or by an organisation representing a non wage earning profession or officials of public authorities in favour of its members. Neither shall it apply to group contracts signed by a credit institution to guarantee the repayment of a loan.

Section II : Life insurance policies or lost, destroyed or stolen bonds of capitalisation or savings

Article L160-1

Whomsoever claims to have been dispossessed by loss, destruction or theft of a life insurance contract or policy, or a capitalisation or savings bond or contract, when the certificate is to order or a bearer certificate, must report the loss, destruction or theft thereof to the insurance, capitalisation or savings firm, at its registered office, by registered letter with acknowledgement of receipt. The recipient firm shall acknowledge receipt thereof to the sender, in the same form, within one week

at the latest of the delivery thereof. It shall notify to him at the same time that he must, as a protective measure and all of the parties' rights being reserved, pay at the due date thereof the premiums or contributions provided for in the event the third party holder does not pay them, in order to maintain full validity of the contract in respect of which an order to stop payment has been issued.

The declaration referred to in the previous paragraph shall entail an order to stop payment of the capital and all additional charges to the premium.

Article L160-2

If the contract, in respect of which an order to stop payment has been issued, has been submitted to the firm, it shall take possession and act as a depository thereof until a court has decided on ownership of the certificate or withdrawal of the order to stop payment.

The third party holder shall be issued with a receipt of the contract if he proves his identity and his address.

Failing such proof, the contract shall be returned without formality to the opposing party.

Section III : Insurance contracts denominated in foreign currencies

Article L160-3

(Act n°. 89-1014 of 31 December 1989, Article 37, Official Journal of 3 January 1990 in force on 1 July 1990)

Individuals residing in France and legal entities in respect of activities associated with their establishments in France may contract insurance and capitalisation contracts denominated in foreign currencies.

Article L160-4

Orders by the minister of economy and finance shall, as required, specify the provisions for the application of this Article.

Section IV : Surrender of annuities inferior to a certain minimum amount by life insurance firms

Article L160-5

Notwithstanding any contractual provisions stipulating otherwise, life insurance firms may, in accordance with the terms and the scale defined by order of the minister of economy and finance, proceed with the transformation or surrender of annuities purchased and whose instalment receipts are of an amount inferior to a minimum amount defined by said order.

Section V : Effect of the requisition of property and services on insurance contracts

Article L160-6

The requisition of the ownership in whole or in part of personal property shall ipso jure entail, within the limit of the requisition, the termination or reduction of the insurance contracts relating to said property, as from the date of dispossession thereof. However, the insured may request the insurer to substitute for termination the simple suspension of the effects of the contract in view of subsequently reviving the contract in respect of the same or similar risks.

The requisition of the use in whole or in part of personal or real property shall ipso jure entail the suspension of the effects of insurance contracts relating to such property within the limit of the requisition and within the extent of the State's liability, as defined in Article 20 of order n°. 59-63 of 6 January 1959.

The suspension provided for in the previous paragraphs shall not change either the term of the contract or the parties' respective rights with regard to such term. It shall take effect on the date of dispossession of the property. The suspended contract shall be revived ipso jure as from the date of the total or part return of the requisitioned property, if it has previously ended on a legal or contractual ground. The insured must notify the insurer, by registered letter, of said return within one month as from the date he has had knowledge thereof. Failing notice within said time limit, the contract shall be revived only as from the date on which the insurer receives notice of the restitution.

Article L160-7

(Act n°. 93-1444 of 31 December 1993, Article 19, I, Official Journal of 5 January 1994)

The requisition of services, within the meaning of Article 2 of Order n°. 59-63 of 6 January 1959 relating to the requisition of property and services and in the case of housing or billeting shall ipso jure entail the suspension of the effects of insurance contract against damage within the limit of the requisition and to the extent of the State's liability, as defined by Article 20 of the aforementioned Order n°. 59-63 of 6 January 1959.

The suspension provided for in the previous paragraph shall not change either the term of the contract or the parties' respective rights in respect of said term. It shall take effect on the effective date of the requisition of the services. The suspended contract shall be revived ipso jure as from the date of the end of the requisition of the services, if it has not previously ended on a legal or contractual ground. The insured must notify the insurer, by registered letter, of the end of the requisition of the services within one month as from the date he has had knowledge thereof. Failing notice within said time limit, the contract shall be revived only as from the date on which the insurer receives notice of the end of the requisition.

The State, the service provider and the insurer may nevertheless decide that insurance contracts against damage shall still be valid and cover risks related to the requisition for the term set for said contracts. In this case, the insurer shall compensate damage occurring at the time of requisition of the services, which is covered by an insurance contract. Notwithstanding any provision stipulating otherwise, the service provider and the insurer, on this account, waive a claim for compensation against the State for said damage.

In the event of the requisition of services within the meaning of Article 2 of the aforementioned order, life insurance contracts shall still be valid ipso jure, notwithstanding any clause to the contrary and the insurer shall be unable to invoke the right of termination provided for in Article L113-4. When the State is liable pursuant to Article 20 of the aforementioned order, the insurer may implicate the State insofar as the increase of the risk is attributable to the requisition.

Article L160-8

(Act n°. 93-1444 of 31 December 1993, Article 19, II, Official Journal of 5 January 1994)

In all cases other than those provided for in the third and fourth paragraphs of Article L160-7, the insured must notify the insurer thereof, by registered letter, within one month as from the date it has had knowledge of the dispossession or the taking effect of the requisition of the services and specify the property concerned by the requisition. Failing notice within said time limit, the insurer shall be entitled, by way of damages, to the part of the premium for the period running from the date on which the insured had knowledge of the dispossession or the taking effect of the requisition of the services and the date on which he notified the insurer thereof.

In the event of termination, the insurer must return the part of the premium paid in advance, after the eventual deduction of damages provided for above, for the period in respect of which the risk is no longer incurred.

In the event of suspension, the insurer shall keep this part of the premium, which shall be credited to the insured's account and bear interest at the rate of Bank of France advances on securities as from the very next due date.

In the event of reduction, the insurer shall also keep the overpaid part of the premium, which it shall credit to the insured's account. It shall bear interest on the same terms and be charged ipso jure on premiums to fall due.

If the contract is suspended or reduced, or ends during the requisition, the overpaid part of the premium shall be refunded to the insured with interest. However, it shall be charged ipso jure on the sum owed by the insured in the event he had the insurer cover other risks during the requisition period.

Article L160-9

As provided for in Article 22 of order n°. 59-63 of 6 January 1959, decrees in Conseil d'Etat shall define the terms in which this Article shall be adapted in overseas départements and territories.

Title VII

Marine insurance contract and inland waterway and lake insurance

Chapter I : General provisions

Article L171-1

(Act n°. 92-665 of 16 July 1992, Article 37, I, II, Official Journal of 17 July 1992)

This title shall govern all insurance contracts covering risks in respect of a marine transaction.

Save for Articles L172-5, L172-11, L172-17, L172-26, L173-7, L173-13 (paragraph 4) and L173-21 (paragraph 2), the provisions of this title shall govern inland waterway and lake navigation insurance contracts.

Article L171-2

(Decree n°. 85-863 of 2 August 1985, Article 2, I, Official Journal of 15 August 1985)

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The parties to the contract may not depart from the provisions of Articles L171-3, L172-2, L173-3, L172-6, L172-8, L172-9 (1st paragraph), L172-13 (2nd paragraph), L172-17, L172-20, L172-21, L172-22, L172-28 and L172-31.

Article L171-3

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

All legitimate interests, including the profit hoped for may be covered by insurance.

No-one may claim the benefit of insurance if he has not sustained a loss.

Article L171-4

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Insurance may be contracted either on behalf of the policyholder or on behalf of a specific person or on behalf of whom it may concern.

The declaration that the insurance has been contracted on behalf of whom it may concern shall be valid as insurance in favour of the policyholder and as a provision in favour of a third party in favour of the beneficiary of said clause.

Article L171-5

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

This title shall not apply to insurance contracts whose aim is to cover risks relating to yachting.

Said contracts shall be governed by the provisions of titles I, II and III of this Book. However, the provisions of Article L124-3 shall not preclude application of rules relating to the allocation of the insurance compensation to the establishment of the limitation fund as provided for in Articles L173-23 and L173-24

Article L171-6

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

This title shall apply to French overseas territories and to the collectivité territoriale of Mayotte.

Nota bene – Article 75 of Act 2001-616 of 11 July 2001: In all legislative and regulatory texts in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale ” shall be replaced by reference to the “collectivité départementale ”.

Chapter II

Rules applicable to various marine insurance

Section I : Execution of the contract

Article L172-1

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Legal consequence shall not ensue from the insurance contract when the risks have not begun within two months of the parties' agreement or the date set for attachment.

Said provision shall not apply to open policies for the first risk only.

Article L172-2

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Any omission or false statement by the insured, that is liable to substantially decrease the insurer's assessment of the risk whether or not it has had an effect on the damage or loss of the insured property, shall nullify the insurance at the insurer's request.

However, save for the cases where the insurer proves that it would not have covered the risks if it had known of them, if the insured proves his good faith, the insurer shall cover the risk in proportion to the premium paid compared to that it should have been paid, unless there is a more favourable provision in favour of the insured.

The insurer shall be entitled to the premium in the event of the insured's fraud.

Article L172-3

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Any modification of pending contract either of what has been agreed upon at the moment of its formation or of the insured property, from which results a substantial increase of the risk, shall entail the termination of the insurance if it has not been notified to the insurer within three days of the insured having had knowledge thereof, exclusive of public holidays, unless the insured

proves its good faith, in which case the provisions of the second paragraph of Article L172-2 shall apply.

If such increase is not attributable to the insured, the insurance shall continue in consideration of an increase in premium corresponding to the increase of risk.

If the increase is attributable to the insured, the insurer may either terminate the contract within three days as from the moment it has had knowledge thereof besides the premium to which it is entitled or demand that the premium corresponding to the increase of risk be increased.

Article L172-4

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Any insurance contracted after the loss or the arrival of the insured property or the carrier ship shall be null and void if the news thereof was known, prior to the conclusion of the contract, at the place where it was signed or at the place of the insured's or insurer's place of residence.

Article 172-5

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Lost or not lost insurance shall be null and void if it is proved, prior to the conclusion of the contract, that the insured had personal knowledge of the loss or the insurer had knowledge of the arrival of the insured property.

Article L172-6

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

If the insurer proves that the insured or his representative acted fraudulently, the insurance contracted for a sum in excess of the actual value of the insured property shall be null and void and it shall be entitled to the premium.

The same shall apply if the insured value is an agreed value.

Article L172-7

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Where there is no fraud, the contract shall be valid within the limit of the actual value of the insured property and, if the value has been agreed, for the entire sum insured.

Article L172-8

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Overlapping insurance for a total sum in excess of the value of the insured property shall be null and void if they were contracted with intent to fraud.

Article L172-9

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Overlapping insurance contracted without fraud for a total sum in excess of value of the insured property shall be valid only if the insured informs the insurer from whom it requests payment.

Legal consequence shall ensue from each of them in proportion to the sum to which it is applied within the limit of the entire value of the insured property.

Article L172-10

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Unless the value has been agreed, when the sum insured is inferior to the actual value of the insured property, the insured shall be its own insurer for the difference.

Section II : Obligations of the insurer and the insured

Article L172-11

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer shall be liable for material damage caused to the insured property by any perils of the sea by act of God.

The insurer shall also be liable:

1 for the contribution of the insured property to the general average, unless it ensues from a risk excluded by the insurance,

2 for costs incurred as a result of a risk covered to protect the insured property from material damage or to limit the damage.

Article L172-12

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The clause “free of average” shall free the insurer from all averages whether common or special, apart from the cases that give rise to abandonment: in this case, the insured may choose between the abandonment and the action for damage.

Article L172-13

(Decree n°. 85-863 of 2 August 1985, Article 2, II, Official Journal of 15 August 1985)

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The risks insured shall be covered even in the event of the fault of the insured or his employees on land, unless the insurer proves that the damage was caused by the insured's lack of reasonable care in sheltering the property from the risks that occurred.

The insurer shall not be liable for the wilful or criminal negligence of the insured.

Article L172-14

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The risks shall be covered on the same terms in the event of fault of the captain or crew, apart from that stated in Article L173-5.

Article L172-15

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The risks insured shall be covered even in the event of forced change of route, voyage or ship or in the event of change decided by the captain not involving the ship owner and the insured.

Article L172-16

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer shall not cover the risks of:

- a) civil or foreign war, mines and any engines of war,
- b) piracy,
- c) capture, seizure or holding by any governments or authorities whatsoever,
- d) riots, civil commotion, strikes and lock out, acts of sabotage or terrorist attacks,
- e) damage caused by the insured property to other property or persons, apart from that stated in Article L173-8,
- f) losses attributable to the direct or indirect effects of explosion, emission of heat, irradiation from the transmutation of atom nuclei or radioactivity as well as losses attributable to the effects of radiation caused by artificial particle acceleration.

Article L172-17

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

When it is not possible to prove that the loss was caused by a risk of war or an event at sea, it shall be deemed to have been caused by an event at sea.

Article 172-18

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer shall not cover:

- a) material damage and loss caused by an inherent defect in the insured property, apart from that stated in Article L173-4 in respect of a hidden defect in the ship,
- b) material damage and loss as a result of fines, confiscation, impoundment, requisitions, health or disinfection measures or measures as a result of the violation of blockades, smuggling, or prohibited or illicit trading,
- c) compensation or other indemnities by reason of any attachments or securities given to release the attached property,
- d) losses that do not constitute material damage and losses directly affecting the insured property, such as laying up, delay, difference in price, impediment to the insured's business.

Article L172-19

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insured must:

- 1 pay the premium and charges, at the agreed place and times,
- 2 take reasonable care in all matters relating to the ship or goods,
- 3 truthfully declare, at the time of conclusion of the contract, all circumstances known to him that are liable to have an impact on the insurer's assessment of the risk that it covers,
- 4 disclose to the insurer, to the extent of his knowledge thereof, the increase of risk occurring during the pending contract.

Article L172-20

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In the event of non payment of a premium, the insurer may either suspend the insurance or demand the termination thereof.

The suspension or termination shall take effect eight days only after the insured has been sent a formal demand to pay by registered letter to his last address known to the insurer.

Article L172-21

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The suspension and termination of the insurance by reason of non payment of a premium shall be without effect towards third parties in good faith, beneficiaries of the insurance by virtue of a transfer prior to notice of suspension or termination.

In the event of loss, the insurer, by means of an express clause in the

documentary rider, may demand that said beneficiaries pay the premium on the insurance whose benefit they claim, within the limit of the amount.

Article L172-22

(Act n°. 89-1014 of 31 December 1989, Article 36, II, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In the event of the judicial rehabilitation or liquidation of the insured, the insurer may, if the default notice is not followed by payment, terminate the policy in progress, but the termination shall be without effect towards the third party in good faith, beneficiary of the insurance, by virtue of a transfer prior to any loss and to notice of the termination.

In the event of withdrawal of licence, or the judicial rehabilitation or liquidation of the insurer, the insured shall have the same rights.

Article L172-23

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insured must help to salvage insured property and take all protective measures of his rights against third parties liable.

He shall be liable to the insurer for damage caused by the non performance of said obligation, which is attributable to his fault or negligence.

Section III : Settlement of the claim

Article L172-24

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Damage and loss shall be settled by adjustment of average, save the insured's right to opt for abandonment in the cases determined by law or by agreement.

Article L172-25

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer may not be compelled to repair or replace the insured property.

Article L172-26

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer shall reimburse the general average contribution, whether it is provisional or definitive, as well as the costs of assistance and salvage in proportion to the value that it insured, less, where applicable, any particular average payable by it.

Article L172-27

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The abandonnement may be neither partial nor conditional.

This transfers the rights of the insured, on the insured property, to the insurer on condition that he meets the entire sum insured and the effects of the transfer shall date back, between the parties, to the moment where the insured has notified the insurer about his will to abandon.

Article L172-28

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insured who makes in bad faith a false statement in respect of the loss shall forfeit his right to benefit from the insurance.

Article L172-29

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer who paid the insurance compensation shall be entitled, within the limit of its payment, to all of the insured's rights in respect of damage that gave rise to cover.

Article L172-30

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

If several insurers cover a same risk, each shall be bound only in proportion to the sum that it insured, without joint and several liability with the others. Such proportion shall constitute the limit of its obligation.

Article L172-31

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Legal actions arising under the insurance contract shall be subject to a two year limitation period. The limitation period shall run in respect of minors and other incapable persons.

Chapter III

Rules specific to various marine insurance

Section I : Hull insurance

Article L173-1

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Ship insurance shall be contracted either for a voyage or for several consecutive voyages, or for a fixed term.

Article L173-2

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In respect of insurance per voyage, the cover shall be effective as from the start of loading operations until the end of unloading operations, and two weeks or a fortnight after the ship's arrival at destination at the latest.

In the event of a ballast voyage, the cover shall be effective as from the time the ship starts its voyage until the mooring of the ship upon its arrival.

Article L173-3

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In time insurance, the risks of the first and last day shall be covered by the insurance. Days shall be reckoned by twenty four hour system, based on the time of the country where the policy was issued.

Article L173-4

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer shall not cover damage and loss caused by an inherent defect in the ship, unless it is a hidden defect.

Article L173-5

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insurer shall not cover damage and loss caused by the captain's wilful negligence.

Article L173-6

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

When the insured value of the ship is an agreed value, the parties refrain mutually from making any other estimate, subject to the provisions of Articles L172-6 to L172-26.

Article L173-7

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Under pain of nullity, insurance on safe arrival may be contracted only with the agreement of the ship's insurers.

When a sum is insured in this respect, the insurable interest is evidenced by acceptance of the sum thus covered.

The insurer shall be liable only in the events of total loss or abandonment of the ship as a result of a risk covered by the policy. It has no right to the abandoned property.

Article L173-8

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Apart from personal injury, the insurer shall cover the reimbursement of damage of any kind that the insured is liable for following third party recourse in the event of collision by the insured ship or said ship's impact against a building, floating, mobile or fixed objects.

Article L173-9

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In respect of insurance per voyage or for several consecutive voyages, the insurer shall be entitled to the entire premium as soon as the risks have begun to take effect.

Article L173-10

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In respect of time insurance, the premium stipulated for the entire cover period shall be earned in the event of total loss or abandonment covered by the insurer. If the insurer is not liable for the total loss or abandonment, it shall earn the premium in relation to the time expired up to the total loss or notice of the abandonment.

Article L173-11

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In respect of average adjustment, the insurer shall only reimburse the costs of replacements and repairs acknowledged to be necessary to make the ship seaworthy again, to the

exclusion of any other compensation for depreciation or laying up, or any other ground whatsoever.

Article L173-12

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Whatever the number of events occurring during the term of the policy, the insured shall be covered for each event within the limit of the capital insured, save for the insurer's right to request a surcharge after each event.

Article L173-13

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The ship may be abandoned in the following cases:

- 1 total loss,
- 2 repairs liable to reach three quarters of the agreed value,
- 3 it is beyond repair,
- 4 no news for more than three months; the loss shall be deemed to have occurred on the date of the last news.

Article L173-14

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In the event of transfer or bare hull chartering of the ship, the insurance shall continue ipso jure in favour of the new owner or charterer, with the onus on him to inform thereof the insurer within ten days and to fulfil all of the insured's obligations with regard to the insurer under the contract.

However, the insurer shall be free to terminate the contract within one month of the day on which it received notice of the transfer or chartering. Said termination shall take effect only two weeks or a fortnight after notice thereof.

The transferor or the charterer shall be liable for payment of premiums due prior to the transfer or chartering.

Article L173-15

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The mere transfer of the majority of the shares of a ship in shared ownership shall entail application of Article L173-14.

Article L173-16

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The provisions of this section shall also apply to insurance contracts for the ship that is insured only for the term of its stay in ports, harbours or other places, whether it is afloat or in dry dock.

They shall apply to ships under construction.

Section II : Cargo insurance

Article L173-17

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Goods shall be insured either under a policy which is effective only for a voyage or under a floating policy.

Article L173-18

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Goods shall be insured on a continuous basis, regardless of where they are located, within the limit of the voyage defined under the policy.

Article L173-19

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

When a part of the voyage is made over land, on inland waterways or by air, the rules of marine insurance shall apply to the entire voyage.

Article L173-20

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Cargo may be abandoned if the goods are:

- 1 totally lost,
- 2 lost or damage for amount of three quarters of their value,
- 3 sold by reason of material damage in transit to insured property caused by a risk that is covered.

Article L173-21

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Cargo may also be abandoned in the event:

- 1 of the unseaworthiness of the ship and if the dispatching of goods, regardless of the means of transportation, could not start within three months,
- 2 of lack of news of the ship for more than three months.

Article L173-22

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In case the insured that contracted the floating policy has not complied with the obligations provided for by decree, the contract may be terminated forthwith upon the insurer's request besides his right to premiums for non disclosed shipments.

If the insured acted in bad faith, the insurer may exercise the right to take action to recover payments that it made for the losses in respect of shipments subsequent to the first wilful omission by the insured.

Section III : Liability insurance

Article L173-23

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

The insured shall be entitled to reimbursement under liability insurance only if the wronged third party has been compensated and to the extent thereof, unless the insurance compensation is allocated to form the limitation fund pursuant to the terms of Article 62 of Act n°. 67-5 of 3 January 1967 outlining the status of ships and other seagoing vessels.

Article L173-24

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

In the event a limitation fund is formed, the creditors whose right is subject to limitation pursuant to the terms of Articles 58 to 60 of Act n°. 67-5 of 3 January 1967 outlining the status of ships and other seagoing vessels, shall have no right of legal action against the insurer.

Article L173-25

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Legal consequence shall ensue from liability insurance for the purpose of compensating losses that the ship caused to third parties, which are covered by the terms of Article L173-8, only in the event of the inadequacy of the sum insured under the hull policy.

Article L173-26

(Act n°. 92-665 of 16 July 1992, Article 37, II, Official Journal of 17 July 1992)

Whatever the number of events occurring during the term of the liability insurance, the sum insured by each insurer shall constitute the limit of its agreement for each event.

Chapter IV

Rules specific to various inland waterway and lake navigation insurance

Section I : Hull insurance

Article L174-1

(inserted by Act n°. 92-665 of 16 July 1992, Article 37, III, Official Journal of 17 July 1992)

The hull insurance shall cover the losses and material damage to the boat and its insured appurtenances caused by all shipping accidents or acts of God, save for formal and limited exclusions provided for in the insurance contract.

Article L174-2

(inserted by Act n°. 92-665 of 16 July 1992, Article 37, III, Official Journal of 17 July 1992)

The insurer shall not cover losses and damage when the boat undertakes a voyage in a state that renders it unsuitable for shipping or it is inadequately equipped.

Similarly, it shall not cover losses and damage as a result of the normal wear and tear of the boat or its ageing.

Article L174-3

(inserted by Act n°. 92-665 of 16 July 1992, Article 37, III, Official Journal of 17 July 1992)

The insurer shall be answerable for the contribution of the insured property to the general average. Similarly, when the insured owns all of the goods on board, the insurer shall cover losses that would have formed a general average if the goods had belonged to a third party.

Section II : Cargo insurance

Article L174-4

(inserted by Act n°. 92-665 of 16 July 1992, Article 37, III, Official Journal of 17 July 1992)

Cargo insurance shall cover losses and material damage caused to goods by all shipping accidents or acts of God, save for formal and limited exclusions provided for in the insurance

contract.

Article L174-5

(inserted by Act n°. 92-665 of 16 July 1992, Article 37, III, Official Journal of 17 July 1992)

The insurer shall not be liable for damage or loss that the consignor or consignee, as such, caused by wilful or criminal negligence.

It shall not be liable for damage caused by an inherent defect in the goods, due to internal deterioration, decline, wastage, lack of packaging or defect in packaging, leakage in transit or on account of rodents. However, the insurer shall cover damage caused by delay when the voyage has been abnormally delayed by an event for which it is answerable.

Section III : Liability insurance

Article L174-6

(inserted by Act n°. 92-665 of 16 July 1992, Article 37, III, Official Journal of 17 July 1992)

The insurer may not pay all or part of the sum owed to any one other than the wronged third party as long as said third party has not received settlement within the limit of said amount for the pecuniary consequences of the tort that entailed the insured's liability.

Title VIII

Applicable law to insurance contracts for risks located on the territory of one or more States party to the European Economic Space Agreement and for the agreements made therein

Chapter I : Non compulsory insurance against damage

Article L181-1

(Act n°. 89-1014 of 31 December 1989, Article 2, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 17, I, II, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 7, II, Article 36, Official Journal of 5 January 1994 in force on 1 July 1994)

1 When the risk falls within the meaning of Article L310-4 in France and the policyholder has his main residence or its head office in France, French law shall apply to the exclusion of any other law.

2 When the risk falls within the meaning of Article L310-4 in France and the policyholder does not have his main residence or head office in France, the parties to the contract may choose to apply either French law or the law of the country where the policyholder has his main residence

or head office.

Similarly, when the policyholder has his main residence or head office in France and the risk does not fall within the meaning of Article L310-4, the parties to the insurance contract may choose to apply French law or the law of the country where the risk is located.

3 When the policyholder carries on a commercial, industrial or professional activity and the contract covers two or more risks relating to said activities located in France and in one or more other member States of the European Economic Space, the parties to the contract may choose the law of one of the States where said risks are located or that of the country where the policyholder has its main residence or head office.

4 When the cover of risks located in the State or States referred to in 1, 2 and 3 above is limited to losses that may occur in another member State of the European Economic Space, the parties to the insurance contract may choose the law of the State where the loss occurs.

5 In respect of major risks as defined in Article L111-6, the parties shall be free to choose the law applicable to the contract.

However, the choice by the parties of a law other than French law may not, when all factors of the contract are located at the time of said choice in France, preclude the application of laws and regulations that may not pursuant to Article L111-2 be departed from by contract.

Article L181-2

(Act n°. 89-1014 of 31 December 1989, Article 2, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 17, I, II, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 36, I, III, Official Journal of 5 January 1994 in force on 1 July 1994)

When the parties have to choose the applicable law in one of the cases referred to in Article L181-1, said choice shall be express or result with certainty from the clauses of the contract or the circumstances of the cause.

Want of choice, the contract shall be governed by the law, amongst the States taken into account in the previous article, of the State with which it has the closest links. The contract shall be presumed to have the closest links with the member State of the European Economic Space where the risk is located. If a part of the contract is separable from the remainder of the contract and has a closest link with one other country of those taken into account, in accordance with the previous article, the law of said other country may be applied to such part of the contract.

Article L181-3

(Act n°. 89-1014 of 31 December 1989, Article 2, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 17, I, II, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 36, I, III, Official Journal of 5 January 1994 in force on

1 July 1994)

Articles L181-1 and L181-2 may not preclude public policy provisions of French law, which shall be applicable regardless of the law that governs the contract.

However, the court may give effect in France to public policy provisions of the law of a member State of the European Economic Space where the risk is located or that of a member State that imposes the obligation to insurance, if, according to the law of said countries, said provisions are applicable regardless of the law that governs the contract.

When the contract covers risks located in several member State of the European Economic Space, the contract shall be deemed, for the application of this Article, to constitute several contracts, each one of which relates to one State only.

Article L181-4

(Act n°. 89-1014 of 31 December 1989, Article 2, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 17, I, II, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 36, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Subject to the provisions of Articles L181-1 to L181-3 and for the remainder, the general rules of private international law in respect of contractual obligations shall apply.

Chapter II : Compulsory insurance against damage

Article L182-1

(Act n°. 89-1014 of 31 December 1989, Article 2, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 17, I, III, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 36, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Contracts drawn up in order to comply with an obligation to insure imposed by a French law shall be governed by French law.

Chapter III : Life insurance and capitalisation

Article L183-1

(Act n°. 92-665 of 16 July 1992, Article 17, IV, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 7, III, Article 36, I, III, Official Journal of 5 January 1994 in force on 1 July 1994)

When the agreement is made in France within the meaning of Article L310-5, the contract shall be governed by French law, to the exclusion of any law.

However, if the policyholder is an individual and national of another member State of the European Economic State, the parties to the insurance contract may choose to apply either French law or the law of the State of which the policyholder is a national.

Article L183-2

(Act n°. 92-665 of 16 July 1992, Article 17, IV, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 36, I, III, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of Article L183-1 may not preclude public policy provisions of French law, which shall apply regardless of the law that governs the contract.

However, the court may give effect in France to public policy provisions of the law of the member State of the agreement was made if the law of said State provides that said provisions shall be applicable regardless of the law that governs the contract.

Title IX

Provisions specific to the Départements of of Bas-Rhin, Haut-Rhin and the Moselle

Chapter I : General provisions

Article L191-1

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

The insurance code shall govern risks located in the départements of Bas-Rhin, Haut-Rhin and the Moselle, subject to the provisions set forth hereinafter.

Article L191-2

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

The risk shall be deemed to be located in said départements:

- 1 if the property is located in said départements when the insurance relates either to real property or to real property and its contents,
- 2 when the contract was signed in said départements,
- 3 when it relates to a contract for a term less than or equal to four months in respect of risks incurred during a trip, regardless of the branch in question,
- 4 in all cases other than those referred to above, if the policyholder has its main

residence in said départements or, if the policyholder is a legal entity, the establishment of said legal entity covered by the contract is located in said départements.

Article L191-3

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

Save for the requirements that grant the parties a simple right, which are set forth in Articles L191-7, L192-2 and L192-3, the requirements of this title may not be amended by agreement.

Article L191-4

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

There shall be no need for termination or reduction pursuant to Article L113-9 if the insurer knew of the risk that had been concealed or distorted or if it did not change the scope of its obligations or if it had no impact on the occurrence of the loss.

Article L191-5

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

In the event the insured breaches one of his obligations after the occurrence of the loss, the insurer shall forfeit his rights only in the event of his gross misconduct or wilful breach.

Article L191-6

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

Each party shall be entitled to terminate the contract, after the occurrence of the loss, within one month following the conclusion of negotiations in respect of the compensation.

The insurer must give one month's notice. It shall return the part of the premium paid in advance for the period during which the risk was not incurred. Such time limit shall be calculated as from the effective date of termination.

Article L191-7

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

Without prejudice to the provisions of Articles L211-17 and L242-1, the compensation owed to the insured shall bear interest at the legal interest rate as from the expiry of the month following the report of the loss.

If the loss has still not been completely assessed on said date, the insured may

request payment of a provision equal to the amount of the loss that has already been proved.

The time limit shall not run insofar as the valuation of the loss is delayed through the insured's fault.

Chapter II : Provisions applicable to inland waterway insurance

Article L192-1

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

The time limit provided for in paragraph 1 of Article L114-1 shall be increased to five years in respect of life insurance.

Article L192-2

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

The suspension of the insurance contract provided for in Article L121-11 shall take effect as from midnight on the fifth day following that of the transfer.

Article L192-3

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

Notwithstanding the provisions of Article L122-4 and unless expressly otherwise provided, the insurer is bound to compensate, besides the damage caused by the action of fire, an explosion or lightening, that which is the inevitable consequence of the fire or that which is caused by its extinguishing, demolition and debris removal from the premises, the theft and disappearance of the insured property.

Article L192-4

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

With regard to real property insurance, any act whatsoever that has the effect of terminating the cover or of decreasing the cover of the risk may be invoked against the mortgagee who notified his mortgage to the insurer only one month after the insurer advised him thereof or after he has had knowledge thereof by any other means.

The previous paragraph shall not apply when the insurance ends as a result of the judicial rehabilitation or liquidation of the insured or as a result of non payment of the premium.

The insurer who is discharged of its cover by reason of the insured's breach of his obligations, apart from the obligation in respect of payment of the premium, shall be bound with regard to the mortgagee, even if the mortgage has not been notified to it. The same shall apply when the insurer terminates the contract after the occurrence of the loss.

The insurer who pays the mortgagee in compliance with the provisions of the previous paragraph shall be subrogated in his rights. The subrogation shall not affect the rights of the other mortgagees registered on the same ranking or with a subsequent ranking with regard to which the insurer is still bound.

The insurer must immediately notify the mortgagee whose mortgage was notified to it that the insured is allowed a time limit to pay the premium and that at the end of such time limit the insurance shall be terminated on the ground of non payment of the premium.

The insurer may not refuse the premium offered by the mortgagee even if the insured objects thereto.

Article L192-5

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

If the contract requires that the damaged building be reconstructed, the payment of the compensation shall be enforceable against the mortgagee only one month after the insurer has notified the mortgagee that the compensation shall be paid without any certainty of its being allocated to the reconstruction. Until the expiry of said time limit, the mortgagee may object to payment of the insurance compensation.

Article L192-6

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

In the event of a change of the mortgagee's place of residence, the notice by registered letter with acknowledgement of receipt shall be validly served by the insurer to the mortgagee's last known place of residence.

Article L192-7

(inserted by Act n°. 91-412 of 6 May 1991, Article 2, Official Journal of 7 May 1991)

The provisions of Articles L192-3 to L192-5 and those of Articles 1127 and 1128 of the local Civil Code shall also apply to secured creditors.

Book II

Compulsory insurance

Title I

Motor vehicle, trailer or semi-trailer insurance

Chapter I: The duty of the insurer

Section I : Persons liable

Article L211-1

(Act N°.81-5 of 7 January 1981, Article 2-i, Official Journal of 8 January 1981 in force on 1 July 1981)

(Act n°. 85-677 of 5 July 1985, Article 7 and 8, Official Journal of 6 July 1985 in force on 1 January 1986)

(Act n°. 89-1014 of 31 December 1989, Article 50, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 93-1444 of 31 December 1993, Article 18, Official Journal of 5 January 1994)

(Act n°. 99-505 of 18 June 1999, Article 5, Official Journal of 19 June 1999)

Any individual or legal entity other than the State, whose public liability may be incurred due to damage sustained by third parties as a result of personal injury or material damage, during the occurrence of which a motor vehicle as well as its trailers or semi-trailers is involved must, to drive such vehicles, be covered by insurance covering such liability in accordance under the terms defined by decree in Conseil d'Etat.

Insurance contracts covering the liability referred to in the first paragraph of this article must also cover the public liability of any person who has custody of the vehicle or who drives the vehicle, even if not so authorised, with the exception of professionals involved in the repair, sale and inspection of the car, as well as the public liability of passengers of the vehicle covered by insurance. However, in the event of the theft of a vehicle, said contracts shall not cover compensation for losses sustained by the perpetrators, co-perpetrators or accomplices.

The insurer shall be subrogated in the creditor of the compensation's rights against the person liable for the accident when the custody of the vehicle was obtained or when the vehicle was driven against the owner's will.

Said contracts must be contracted with an insurance firm that it is authorised to provide motoring accident insurance.

The members of the driver's or the insured's family as well as the pupils of an authorised motor driving school during training or examination shall be deemed to be third parties within the meaning of the first paragraph of this Article.

Article L211-2

The provisions of Article L211-1 shall not apply to damage caused by railways and tramways.

Section II : Scope of compulsory insurance

Article L211-4

(Act n°. 91-716 of 26 July 1991, Article 1, II, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 94-5 of 4 January 1994, Article 40, I, Official Journal of 5 January 1994)

The insurance provided for in Article L211-1 must include cover of public liability extending to all of the territories of the member States of the European Community as well as to the territories of all third party States in respect of which the national offices of all of the member States of the European Community shall individually guarantee settlement of the accidents occurring on their territory and caused by the traffic of vehicles that are normally parked in said third party State. The insurer shall grant such cover, when it is applicable outside France, within the limits and terms of the national law of the State on whose territory the accident occurred or by that of the State where the vehicle is normally parked when the insurance cover is more favourable there.

Said insurance must also include a public liability cover in the event of an accident occurring during the journey directly between two territories where the treaty establishing the European Economic Community is applicable, when there is no national insurance office for the territory crossed.

In such case, the insurer shall be bound only to cover the harm that nationals of the States referred to in the first paragraph of this Article may suffer, in accordance with the terms of the national law in respect of the insurance obligation in force in the State where the vehicle that caused the accident is normally parked.

The State where the vehicle is normally parked shall be either the State where the vehicle is registered or, failing an obligation to register, the State on whose territory the person with custody of the vehicle has a place of residence.

Article L211-5

The decree in Conseil d'Etat referred to in Article L211-1 defines the terms for the application of this title, and in particular, the scope of the insurance contract's cover, the methods of drawing up supporting documents and validity thereof provided in order to exercise powers of control as well as the obligations imposed on users of vehicles in international traffic in possession of a national letter other than the French letter.

Notwithstanding any clauses to the contrary, any insurance contract signed by a person subject to the obligation established under Article L211-1 shall be deemed to include covers that are at least equivalent to those defined by the decree in Conseil d'Etat provided for in the previous paragraph.

Article L211-6

Any clause providing that the insured's cover shall be forfeited in the event of a conviction on the ground of drunken driving or driving under the influence of alcohol shall be deemed non written.

Article L211-7

The provisions of this title shall not affect the regulatory requirements in force insofar as said requirements relate to different risks or impose wider obligations.

Section VI : Compensation procedures

Article L211-8

(Decree n°. 88-260 of 18 March 1988, article 2, Official Journal of 20 March 1988)

With the exception of railways and tramways running on dedicated tracks, the provisions of this section shall apply even when they are transported under a contract to the victims of a traffic accident in which a motor vehicle and its trailers or semi-trailers are involved.

Article L211-9

The insurer who covers public liability as a result of an action by a motor vehicle shall be bound to make an offer of compensation to the victim who sustained personal injury within eight months at most as from the accident. In the event of the victim's death, the offer shall be made to heirs and, where applicable, to his/her spouse.

An offer must also be made to the other victims within eight months as from their claim for damages.

The offer shall include all compensable items of the loss, including the items related to material damage, when they have not been the subject of prior settlement.

The offer may be made provisionally when the insurer has not, within three months of the accident, been informed of the stabilisation of the victim's condition. The final offer of compensation must then be made within five months following the date on which the insurer was informed of said stabilisation.

In the event more than one vehicle is involved and if there are several insurers, the offer shall be made by the insurer acting on behalf of the other insurers.

The foregoing provisions shall not apply to victims of the accident who sustained material damage only.

Article L211-10

At the time of its first correspondence with the victim, the insurer, under pain of nullity of the settlement that may be made, must inform the victim that he may, upon simple request, be provided with a copy of the police report and remind him that he may be assisted by a lawyer and, in the event of a medical check-up, a doctor, which he shall be free to choose.

Subject to the same penalty, this correspondence shall inform the victim of the provisions of the fourth paragraph of Article L211-9 and those of Article L211-12.

Article L211-11

From the moment that the insurer, without its fault, could not know that the third party payers referred to in Article 29 of Act n°. 85-677 of 5 July 1985 and in Article L211-25 had to make disbursements, said third party payers shall lose all right to repayment against it and against the person liable for the damage. However, the insurer may not plead such ignorance with regard

to institutions paying social security benefits.

In any event, if third party payers fail to produce their claims within four months as of the request made by the insurer, they shall forfeit their rights against the insurer and the person liable for the damage.

In the event that the claim made by the insurer fails to refer to the stabilisation of the victim's condition, claims produced by the third party payers shall be provisional in nature.

L211-12

When the third party payers have been unable on account of the victim to exercise their rights against the insurer, they shall have recourse against the victim within the limit of the compensation that he received from the insurer by way of the same ground of damage and within the limits provided for in Article 31 of Act n°. 85-677 of 5 July 1985. They must act within two years as from the claim for payment of the benefits.

Article L211-13

When the offer has not been within the time limit prescribed by Article L211-9, the amount of the compensation offered by the insurer or awarded by the court to the victim shall bear interest ipso jure at double the legal interest rate as from the expiry of the time limit and until the date of the offer or the final judgement. This penalty can be reduced by the court for circumstances not attributable to the insurer.

Article L211-14

If the court that sets the amount of the compensation considers that the insurer's offer was clearly inadequate, it shall order the insured, on its own motion, to pay a sum equal at most to 15 per cent of the compensation awarded to the guarantee fund provided for under Article L421-1, without prejudice to damages owed to the victim on this account.

Article L211-15

The insurer must submit any planned settlement in respect of a minor or a person of full age put under wardship, to the guardianship judge or board of guardians that is empowered, as the case may be, to authorise it. It must also give the guardianship judge at least two weeks or a fortnight's advance notice, without formality, of the payment of the first annuity instalment or of any sum to be paid as a compensation to the legal representative of the protected person.

Payment not preceded by the required notice or an unauthorised settlement may be cancelled at the request of any concerned party or the public prosecutor, with the exception of the insurer.

Any clause whereby the legal representative vouches that the minor or a person of full age put under wardship will approve one of the instruments referred to in the first paragraph of this Article shall be null and void.

Article L211-16

The victim may, by registered letter with acknowledgement of receipt, terminate the settlement within two weeks or a fortnight of its conclusion.

Any clause of the settlement whereby the victim waives his right of termination shall be null and void.

The above provisions must be set forth in very clear print in the settlement offer and in the settlement, under the penalty of the latter's revocation.

Article L211-17

Sums agreed must be paid within one month after the expiry of the period of termination set in Article L211-16. In the opposite case, sums not paid shall bear interest ipso jure at the legal interest rate, which shall be increased by 50% during two months, then, upon expiry of said two month period, it shall be doubled.

Article L211-18

In the event of a conviction as a result of an enforceable court decision, even if it is provisionally enforceable, the rate of the legal interest rate shall be increased by 50 per cent upon expiry of a two month period and it shall be doubled upon expiry of a four month period, as from the date of the court decision when such court decision was handed down after an adversarial procedure and, in all other cases, on the date of service of the decision.

Article L211-19

The victim may, within the time limit provided for in Article 2270-1 of the Civil Code, claim compensation for the increase in the damage that he sustained from the insurer who paid the compensation.

Article L211-20

When the insurer invokes an objection based on the legal or contractual cover, it shall be bound to comply with the requirements of Articles L211-9 to L211-17 on behalf of whom it may concern. The settlement may be contested before the court by the person on behalf of whom it was made, without the amount of the sums awarded to the victim or its assigns being called into question.

Article L211-21

(Act n°. 96-314 of 12 April 1996, Article 85, I, Official Journal of 13 April 1996 in force on 1 January 1997)

For the application of Articles L211-9 to L211-17, the State and the public authorities,

firms or institutions entitled to an exemption under Article L211-2 or granted a derogation from compulsory insurance under Article L211-3 shall be treated as an insurer.

Article L211-22

The provisions of Articles L211-9, L 211-10 and L211-13 to L211-19 shall apply to the traffic and hunting accident guarantee fund established by Article L421-1, in its relations with the victims or their assigns. However, the time limit provided for in Article L211-9 shall run against the fund as from the date only as from the date it receives evidence to justify its intervention.

The application of Articles L211-13 and L211-14 shall not preclude the special provisions that govern legal actions against the fund. When the guarantee fund is liable for the interest provided for in Article L211-14, it shall be paid to the Public Treasury.

Article L211-23

Subject to the control of the authorities, a periodical publication shall review the indemnities awarded by judgements and settlements.

Article L211-24

A decree in Conseil d'Etat defines the measures required to apply this section. In particular, it determines the causes of suspension or extension of the time limit referred to in Article L211-9 as well as the information that the insurer, the victim and third party payers must give one another.

Article L211-25

The first two paragraphs of Article 33 of Act n°. 85-677 of 5 July 1985 shall apply to insurers.

When provided for by contract, the subrogation recourse of the insurer who paid the victim an advance on the compensation on account of the accident may be exercised against the insurer of the person liable for compensation within the limit the balance subsisting after payments to the third parties provided for in Article 29 of the same Act of 5 July 1985. It must be exercised, where applicable, within the time limits that third party payers are allowed by law to produce their claims.

Section VII : Penalties

Article L211-26

(Act n°. 85-1407 of 30 December 1985, Article 63, Official Journal of 31 December 1985)
(Decree n°. 88-260 of 18 March 1988, Article 2, Article 3, Official Journal of 20 March 1988)
(Act n°. 94-5 of 4 January 1994, Article 40, II, Official Journal of 5 January 1994)

Penalties imposed on the ground of breach of the obligation to insure provided for in Article L211-1, including the fines that a pardon has substituted for imprisonment, shall be increased by 50% upon collection thereof in favour of the guarantee fund established by Article L420-1.

If a serious dispute relating to the existence or validity of the insurance is brought before a civil court, the criminal court called to rule on criminal proceedings brought on the ground of breach of the obligation to insure shall stay proceedings until a final judgement has been handed down in the dispute.

The provisions of this Article shall not apply when the public liability insurance relates to vehicles normally parked on the territory of a State referred to in Article L211-4, with the exception of France and Monaco.

Chapter II: Obligation to insure – the central rating office

Article L212-1

(Act n°. 91-716 of 26 July 1991, Article 1, III, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 94-5 of 4 January 1994, Article 37, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any person subject to compulsory insurance who, having applied to underwrite a contract to an insurance firm that covers the risks of public liability in France as a result of use of motor vehicles, is refused an insurance contract may submit his request to the central rating office, the terms applicable to the establishment and operation of which are defined by the decree in Conseil d'Etat provided for in Article L211-1.

The exclusive role of the central rating office is to set the amount of the premium in consideration of which the insurance firm in question is bound to cover the risk proposed to it. In accordance with the terms defined by the aforementioned decree in Conseil d'Etat, it may determine the amount of a deductible payable by the insured.

Article L212-2

Any clauses of reinsurance treaties that aim to exclude certain risks from the reinsurance cover for reason of the rating adopted by the central rating office shall be null and void.

Article L212-3

(Act n°. 91-716 of 26 July 1991, Article 1, IV, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 94-5 of 4 January 1994, Article 37, II, Official Journal of 5 January 1994 in force on 1 July 1994)

Any insurance firm covering the risk of public liability ensuing from use of motor

vehicles that continues to refuse to cover the risk whose premium has been set by the central rating office shall be deemed to no longer operate in accordance with current regulations. It shall incur, as the case may be, either a withdrawal of licences provided for in Articles L321-1, L321-7, L321-8 or L321-9 or the penalties provided for in Articles L351-7, L351-8 and L363-4.

Chapter III : Contribution to the Social Security Service

Article L213-1

(Act n°. 96-314 of 12 April 1996, Article 85, I, Official Journal of 13 April 1996 in force on 1 January 1997)

(Act n°. 98-1194 of 23 December 1998, Article 13, Official Journal of 27 December 1998 in force on 1 January 1998)

(Act n°. 99-641 of 27 January 1999, Article 12, Official Journal of 28 July 1999 in force on 1 January 2000)

A contribution shall be owed by any individual or legal entity that either in his/its capacity as employer or in his/its capacity as member pays contributions to a compulsory health insurance scheme or benefits from such a scheme in his/its capacity as eligible member or pays the contribution sociale généralisée on income from his/its activity or replacement income which is subject to compulsory insurance in respect of motor vehicles established by Article L211-1. Said contribution shall be collected in favour of the national health insurance office of employed persons.

Said contribution shall be proportional to premiums or contributions for compulsory insurance in respect of motor vehicle traffic established by Article L211-1. It shall be collected by insurance firms in accordance with the same terms and at the same time as said premiums.

Individuals or legal entities that do not pay contributions either in their capacities as employers or in their capacities as eligible members of a compulsory health insurance scheme or that do not benefit from such a scheme in their capacities as eligible members or that do not pay the contribution sociale généralisée on income from their activities or replacement income shall be responsible for providing proof thereof by all means and in particular by making a declaration to the insurance institutions with which they have underwritten contracts pursuant to the aforementioned Article L211-1.

A decree in Conseil d'Etat defines the provisions for application of this Article and, in particular, the rate of the contribution.

Article L213-2

(Act n°. 92-1336 of 16 December 1992, Article 322, Article 329, Official Journal of 23 December 1992 in force on 1 March 1994)

Any one who, to provide the proof laid down in paragraph 4 of Article L213-14 commits fraud or makes a misrepresentation, shall be fined FRF 25,000.

Chapitre IV: Provisions specific to overseas départements and territories and to the collectivité territoriale of Mayotte

Section 1 : Provisions specific to overseas départements

Article L214-1

(Order n°. 92-255 of 4 March 1992, Article 1, Official Journal of 20 March 1992)

Decrees in Conseil d'Etat define the effective dates and the provisions for application or adaptation of chapters I and II to overseas départements.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale ” shall be replaced by reference to the “collectivité départementale ”.

Section II : Provisions specific to overseas territories

Article L214-2

(Decree n°. 88-260 of 18 March 1988, Article 2, Official Journal of 20 March 1988)

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Order n°. 92-255 of 4 March 1992, Article 1, Article 2, Official Journal of 20 March 1992)

The third paragraph of Article L211-26 and Articles L212-1 to 212-3 shall apply to French overseas territories.

The aforementioned provisions shall take effect in the territories of Wallis and Fatuna on the first day of the calendar quarter following publication of the order enforcing the deliberation that establishes compulsory insurance for public liability in respect of motor traffic.

The provisions for the application of this Article are defined by decree in Conseil d'Etat.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale” shall be replaced by reference to the “collectivité départementale ”.

Section III : Provisions specific to the collectivité territoriale of Mayotte

Article L214-3

(inserted by Order n°. 92-255 of 4 March 1992, Article 3, Official Journal of 20 March 1992)

Save for Articles L211-12, L211-4, L213-1, L214-1 and L214-2, the provisions of title I of chapter II shall apply to the collectivité territoriale of Mayotte.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale” shall be replaced by reference to the “collectivité départementale”.

Title II

Insurance of machines used for mechanical lifting

Sole chapter

Article L220-1

Any individual or legal entity other than the State that operates a funicular, rack railway, cableway, ski tow or any other mechanical lifts that use carrier or traction cables for the transportation of passengers under any legal scheme whatsoever must be covered by insurance that covers its public liability for all damage caused by said means of transportation.

Article L220-3

(Act n°. 92-1336 of 16 December 1992, Article 322, Official Journal of 23 December 1992 in force on 1 March 1994)

Anyone who knowingly breaches the provisions of Article L220-1 shall be punished by a six month prison sentence and a fine of FRF 60,000 or one only of said penalties.

As soon as the lack of insurance has been recorded, the prefect shall suspend the licence of activity until the situation has been put in order.

Article L220-4

No licence of activity shall be granted unless the existence of the insurance contract referred to in Article L220-1 is proved.

Article L220-5

(Act n°. 89-1014 of 31 December 1989, Article 53, Official Journal of 3 January 1990 in force on 1 July 1990)

Any person subject to compulsory insurance that has been unable to underwrite a contract for the risks referred to in Article L220-1 with at least three of the firms licensed in the relevant branch for said risks may contact the central rating office, whose terms applicable to the establishment and operation of which are defined by decree in Conseil d’Etat.

The exclusive role of the central rating office is to set the amount of the premium in consideration of which the insurance firms to which a request to underwrite a contract has been

made, as stated in the above paragraph, shall be bound to cover the risk proposed to them. It may, in accordance with the terms defined by decree in Conseil d'Etat, determine the amount of a deductible payable by the insured.

Any insurance firm that continues to refuse to cover a risk whose premium has been set by the central rating office shall be deemed to no longer operate in accordance with current regulations and its licence provided for in Article L321-1 shall be withdrawn.

Any clauses of reinsurance treaties that aim to exclude certain risks to which this penalty relates from the reinsurance cover shall be null and void.

Article L220-6

(Act n°. 89-1014 of 31 December 1989, Article 50, Official Journal of 3 January 1990 in force on 1 July 1990)

A decree in Conseil d'Etat defines the terms of application of this chapter and, in particular, the nature and scope of the cover contained in the insurance contract.

Article L220-7

Notwithstanding any clause to the contrary, any insurance contract that covers the public liability of the operator of one of the means of transportation referred to in Article L220-1 shall be deemed to contain covers that are at least equal to those defined by the decree in Conseil d'Etat referred to in Article L220-6.

Article L220-8

Decrees in Conseil d'Etat enacted in accordance with the terms of decree n°. 60-406 of 26 April 1960 relating to the adaptation of the legislative system and administrative organisation of the départements of Guadeloupe, Guyane, Martinique and the Réunion, outlining for said départements the effective date and provisions for application and adaptation of this chapter.

Title IV

Construction works insurance

Chapter I : Compulsory liability insurance

Article L241-1

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

Any individual or legal entity whose liability may be incurred on the basis of the presumption established by Articles 1792 et seq. of the Civil Code in relation to building work must be covered by insurance.

Upon the commencement of the building work, he/it must be able to prove that he/she has underwritten an insurance contract that covers his/its liability.

Notwithstanding any clause to the contrary, any insurance contract underwritten by virtue of this Article shall be deemed to contain a clause, which guarantees that the cover shall be maintained for the term of the liability affecting the person subject to compulsory insurance.

Article L241-2

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

The person who has the building work referred to in the previous Article for a third party must be covered by liability insurance that covers the damage as a result of its acts referred to in Articles 1792 and 1792-2 of the Civil Code.

The same shall apply when the buildings are built with a view to sale.

Chapter II : Compulsory insurance against damage

Article L242-1

(Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

(Act n°. 81-5 of 7 January 1981, Article 36, III, Official Journal of 8 January 1981)

(Act n°. 89-1014 of 31 December 1989, Article 47, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 6, III, Official Journal of 5 January 1994 in force on 1 July 1994)

Any individual or legal entity who, acting as the owner of the construction, the seller or the representative of the owner of the construction, has building work carried out, must before the building work begins on his/its behalf or on behalf of successive owners underwrite insurance that covers, on a no-fault basis, payment of the entire work to repair the type of damage that builders are liable for within the meaning of Article 1792-1, manufacturers and importers or the consulting engineer are liable for under Article 1792 of the Civil Code.

However, the obligation provided for in the first paragraph above shall not apply to public corporations or to legal entities carrying on an activity the scope of which exceeds the thresholds referred to in the last paragraph of Article L111-6, when said public corporation or legal entity has building work carried out on their behalf for a purpose other than for housing.

The insurer has a maximum period of sixty days as from receipt of the report of loss to notify the insured of its decision in principle in respect of implementation of the covers provided for in the contract.

When it accepts the implementation of the covers provided for in the contract, the insurer shall make an offer of compensation to pay for the work to repair the damage within a maximum period of ninety days as from receipt of the report of loss. Where appropriate, the offer may be a

provisional in nature. In the event the insured accepts the offer made, the insurer shall settle the compensation within two weeks or a fortnight.

When the insurer fails to comply with the time limits provided for in the two paragraphs above or proposes an offer of compensation that is clearly inadequate, the insured may, after it has notified the insurer, incur the expenses necessary to repair the damage. In such event, an interest double the legal interest rate shall be applied ipso jure to the compensation paid by the insurer.

In the event of exceptional difficulties due to the nature or scope of the loss, the insurer may, at the same time as it notifies the insured of its agreement in principle in respect of the implementation of the cover, propose that it be allowed a further period to make its offer of compensation. The proposal must be based exclusively on technical considerations and reasons must be given.

The further period provided for in the previous paragraph shall be subject to the insured's express acceptance. Such period may not exceed one hundred and thirty five days.

The insurance referred to in the first paragraph of this Article shall take effect after the expiry of period of the completion bond referred to in Article 1792 of the Civil Code. However, it shall cover the payment of necessary repairs when:

Prior to delivery, following an unsuccessful formal demand, the works contract entered into with the contractor is terminated on the ground of its breach of its obligations.

After delivery, following an unsuccessful formal demand, the contractor has not fulfilled its obligations.

Any insurance firm authorised in accordance with the terms laid down by Article L321-1 or exempted from such authorisation pursuant to the provisions of Article L321-4 of this Code even if it does not manage the risks governed by Articles L241-1 and L241-2 above, shall be empowered to cover the risks provided for in this Article.

Article L242-2

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

In the cases provided for in Articles 1831-1 to 1831-5 of the Civil Code relating to the property development contract as well as in Articles 33, 34, penultimate and last paragraph, 35 and 36 of Act n°. 71-579 of 16 July 1971 relating to various construction operations, the property developer shall assume the obligations defined in Articles L241-2 and L242-1.

Chapter III : Common provisions

Article L243-1

(Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

(Act n°. 89-1014 of 31 December 1989, Article 47, Official Journal of 3 January 1990 [in force] on 1 July 1990)

The State shall not be subject to the obligation to insure when it builds on its own behalf.

Article L243-2

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

Persons subject to the obligations provided for in Articles L241-1 to L242-1 of this Code must be able to prove that they have complied with said obligations.

When the effect of an instrument executed before the expiry of the ten year period provided for in Article 2270 of the Civil Code is to transfer the ownership or possession of the property, regardless of the nature of the contract granting said rights, with the exception however of letting leases, reference must be made to the existence of insurance or lack of insurance in the body of the instrument or in the attachment.

Article L243-3

(Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

(Act n°. 92-1336 of 16 December 1992, Article 322, Official Journal of 23 December 1992 in force on 1 March 1994)

Any one who breaches the provisions of Articles L241-1 to L242-1 of this Code shall be punished by a six months prison sentence and a fine of FRF 500,000 or one only of said two penalties.

The provisions of the previous paragraph shall not apply to the individual who builds housing which he or his spouse, ascendants, descendants or those of his spouse is to occupy.

Article L243-4

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

Any person subject to compulsory insurance who, having applied to underwrite a contract to an insurance firm whose statutes do not preclude cover of the risk in question by reason of its nature, is refused insurance cover, may submit his request to the central rating office, the terms applicable to the establishment and operation of which are defined by the decree in Conseil d'Etat.

The exclusive role of the central rating office is to set the amount of the premium in consideration of which the insurance firm in question is bound to cover the risk proposed to it. It may determine the amount of a deductible payable by the insured.

Article L243-5

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

Any clauses of reinsurance treaties that aim to exclude certain risks from the reinsurance cover by reason of the rating adopted by the central rating office shall be null and void.

Article L243-6

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

Any insurance firm that continues to refuse to cover a risk whose premium has been set by the central rating office shall be deemed to no longer operate in compliance with current regulations and its licence provided for under Articles L321-1 of this Code shall be withdrawn.

Article L243-7

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

The provisions of Article L113-16 and of the second paragraph of Article L121-10 of this Code shall not apply to compulsory insurance provided for in this title.

The victims of damage provided for in Act n°. 78-12 of 4 January 1978 may act directly against the insurer of the party liable for such loss if the latter is affected by judicial rehabilitation or liquidation of property.

Article L243-8

(inserted by Act n°. 78-12 of 4 January 1978, Article 12, Official Journal of 5 January 1978 in force on 1 January 1979)

Notwithstanding any clause to the contrary, any insurance contract underwritten by a person subject to compulsory insurance by virtue of this title shall be deemed to contain covers that are at least equal to those appearing in the standard clauses provided for in Article L310-7 of this Code.

Book III

The firms

Title I

General provisions and State control

Sole chapter

Section I : General provisions

Article L310-1

(Act n°. 81-5 of 7 January 1981, Article 33, II, Official Journal of 8 January 1981)

(Act N°.89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 8, I, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 94-678 of 8 August 1994, Article 14, VI, Official Journal of 10 August 1994)

(Act n°. 94-679 of 8 August 1994, Article 1, I, Official Journal of 10 August 1994 in force on 1 January 1995)

The State shall exercise control in the interest of insured, policyholders and beneficiaries of insurance and capitalisation contracts. Said control concerns:

1 firms which, in the form of direct insurance, contract obligations whose performance depends on human longevity, undertake to pay capital in the event of marriage or the birth of children or invite investment by the public with a view to capitalisation and contract specific obligations for said purpose.

2 firms which, in the form of direct insurance, cover the risks of bodily injury related to accidents and illness.

3 firms which, in the form of direct insurance, cover other risks including those related to an assistance activity.

The provisions of this Code shall not apply to mutual insurance societies governed by the French Mutual Insurance Code, the institutions governed by chapter IX of the French Social Security Code and by Article 1050 of the Rural Code.

Firms authorised on the date of 1 January 1993 which invite investment by the public with a view to capitalisation, without contracting specific obligations, shall also be subject to State control.

Article L310-1-1

(inserted by Act n°. 94-679 of 8 August 1994, Article 1, II, Official Journal of 10 August 1994 in force on 1 January 1995)

Firms underwriting reinsurance but not underwriting direct insurance whose registered office is located in France shall be subject to State control in accordance with the special terms defined in this Book.

Article L310-2

(Act n°. 89-1014 of 31 December 1989, Article 31, Article 38, Article 54, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 9, I, Official Journal of 5 January 1994 in force on 1

July 1994)

(Act n°. 94-679 of 8 August 1994, Article 1, III, Official Journal of 10 August 1994 in force on 1 January 1995)

Subject to the provisions of Article L310-10, the direct insurance transactions defined in Article L310-1 may be underwritten in France only by:

1 firms that have their registered offices in France, from their registered offices or branches lawfully established in a member State of the European Communities, when they are licensed in accordance with the provisions of Article L321-1.

2 foreign firms that have their registered offices in a member State of the European Communities, from their registered offices or branches lawfully established in a member State of the European Communities, in accordance with the terms laid down in title VI of this Book.

3 the foreign firms referred to in Article L310-1, from their branches lawfully established in France, when they have been licensed in accordance with the provisions of Article L321-9.

4 foreign firms other than those referred to in paragraphs 2 and 3 above, from their branches lawfully established in France, when they comply with the terms laid down in Article L321-9.

5 the firms referred to in paragraphs 1 and 2 above, from their branches lawfully established in the States parties to the European Economic Space agreement that are not members of the European Communities in accordance with the terms laid down in title V of this Book as well as, in accordance with the same terms, by the firms referred to in paragraph 1 of Article L310-10-1, from their registered offices or branches lawfully established in a State party to the European Economic Space agreement other than France.

Contracts underwritten in violation of this article shall be null and void. However, said nullity shall not have effect with regard to insured, policyholders and beneficiaries when they acted in good faith.

Article L310-2-1

(inserted by Act n°. 94-679 of 8 August 1994, Article 7, I, Official Journal of 10 August 1994)

For the application of this code, States party to the European Economic Space agreement that are not members of the European Communities shall be treated, subject to reciprocity, as States member of the European Communities, save for application of Article L321-2.

Article L310-3

(order n°. 86-1243 of 1 December 1986, Article 57, Official Journal of 9 December 1986)

(Act n°. 89-1014 of 31 December 1989, Article 31, Article 54, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 10, I, Official Journal of 5 January 1994 in force on 1 July 1994)

In this Code:

1 the expression “State of origin” means the State where an insurance firm’s registered office is located.

2 the expression “State of the branch” means the State where an insurance firm’s branch is located.

3 the expression “scheme of establishment” means the arrangements under which an insurance firm covers a risk or assumes an undertaking located in a State from a branch located in said State.

4 the expression “freedom of services” means the transaction whereby a firm of a member State of the European Economic Space covers or assumes from its registered office or a branch located in a State party to the European Economic Space agreement a risk or an undertaking located in another of said States, which is referred to as the “State of the freedom of services”.

5 the expression “foreign firm” means a firm whose registered office is not located in France.

Article L310-4

(Act n°. 89-1014 of 31 December 1989, Article 31, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(transferred by Act n°. 94-5 of 4 January 1994, Article 3, II, Article 10, II, Official Journal of 5 January 1994 in force on 1 July 1994)

For transactions referred to in paragraphs 2 and 3 of Article L310-1, the State of the location of the risk is considered to be:

1 the State where the property is located when the insurance relates either to real property or to real property and its contents insofar as the latter is covered by the same insurance policy.

2 the State of registration when the insurance relates to vehicles of any kind.

3 the State where the contract was underwritten when it is a contract for a term less than or equal to four months relating to risks incurred during a journey, regardless of the insurance branch in question.

4 in all cases other than those referred to in paragraphs 1, 2 and 3 above, the State where the policyholder has his main place of residence or, if the policyholder is a legal entity, the State where the establishment of said legal entity covered by the contract is located.

Article L310-5

(Act n°. 83-453 of 7 June 1983, Article 1, Official Journal of 8 June 1983)

(Order n°. 86-1243 of 1 December 1986, Article 57, Official Journal of 3 January 1990 in force on 1 July 1990)

(transferred by Act n°. 94-5 of 4 January 1994, Article 3, III, Article 10, III, Official Journal of 5 January 1994 in force on 1 July 1994)

For transactions referred to in the first and last paragraph of Article L310-1, the State, where the policyholder has his main place of residence or, if the policyholder is a legal entity, the

State where the establishment of said legal entity covered by the contract is located, is considered to be the State of the undertaking.

Article L310-6

(Act n°. 89-1014 of 31 December 1989, Article 31, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(transferred by Act n°. 94-5 of 4 January 1994, Article 3, I, Official Journal of 5 January 1994 in force on 1 July 1994)

A French firm may underwrite reinsurance only if it has been established in one of the following legal forms: public limited company, partnership limited by shares or mutual insurance society.

A foreign firm may not underwrite one of the transactions referred to in Article L310-1 or reinsurance transactions in France unless it complies with the provisions of its national law.

Article L310-6-1

(inserted by Act n°. 99-532 of 25 June 1999, Article 53, III, Official Journal of 29 June 1999)

The headquarters of French reinsurance firms must be located in France.

The headquarters of foreign reinsurance firms licensed by virtue of Articles L321-7 or L321-9 must be located on the same territory as their registered seat.

Article L310-7

(Act n°. 89-1014 of 31 December 1989, Article 31, Article 34, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 3, V, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 2001-420 of 15 May 2001, Article 136, I, Official Journal of 16 May 2001)

(Order n°. 2001-766 of 29 August 2001, Article 1, I, Official Journal of 31 August 2001)

A decree in Conseil d'Etat determines the terms applicable to the establishment of firms subject to State control pursuant to Article L310-1 and Article L310-1-1. It specifies the terms in which the provisions of Act n°. 66-537 of 24 July 1966 in respect of business corporations and other laws governing public limited companies shall apply to said firms. Special provisions take account of the non-commercial nature of mutual insurance societies.

The same decree defines the obligations incumbent on French and foreign firms, the guarantees that they must provide, the reserves and technical reserves that they must build up, the general rules applicable to the operation, internal control thereof and exercise of the State's control.

Article L310-8

(Act n°. 89-1014 of 31 December 1989, Article 30, Article 31, Official Journal of 3 January 1990 in force on 1 January 1990)

(Act n°. 94-5 of 4 January 1994, Article 11, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 99-532 of 25 June 1999, Article 91, Official Journal of 29 June 1999)

(Order n°. 2001-350 of 19 April 2001, Article 6, XXXII, Official Journal of 22 April 2001)

The minister may require the disclosure of contractual or advertising documents for the purpose of an insurance or capitalisation.

If it appears that a document breaches the law or regulations, the minister may require that it be modified or decide on the withdrawal thereof after he has heard the opinion of the insurance consultative commission. In the event of an emergency, the opinion of the insurance consultative commission shall not be required.

Article L310-9

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 99-532 of 25 June 1999, Article 41, I, Official Journal of 29 June 1999)

Costs of any kind arising from the application of the provisions of this Code relating to the State control and supervision in respect of insurance and reinsurance shall be covered by means of contributions in proportion to the amount of the premiums or contributions defined hereinafter and which are set yearly for each firm by the administrative authority.

The premiums or contributions retained shall be calculated by adding the total of premiums or contributions earned for the year and not issued to the amount of premiums or contributions issued and accepted, including the additional charges to the premiums and policy costs, net of taxes, assignments and cancellations of the year and all earlier years. Only half of the amount of premiums or contributions accepted in reinsurance or in retrocession shall be retained for said calculation. Assignments or retrocessions shall not be deducted.

Article L310-9-1

(Act n°. 94-5 of 4 January 1994, Article 12, Official Journal of 5 January 1994 in force on 1 July 1994)

(Order n°. 200-766 of 29 August 2001, Article 1, II, Official Journal of 31 August 2001)

The provisions of Article L310- shall not apply to firms that are not concerned by the licences provided for in Articles L321-1, L321-7 and L321-9 or that have not been granted the permission provided for in Article L321-1-1.

Article L310-10

(Act n°. 89-1014 of 31 December 1989, Article 18, Article 31, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 32, Official Journal of 17 July 1992)

(Act n°. 94-5 of 4 January 1994, Article 13, I, II, Official Journal of 5 January 1994 in force on 1 July 1994)

It is prohibited to underwrite direct insurance for a loss concerning a person, property or liability located in France with foreign firms other than those referred to in Article L310-2.

However, the provisions of the above paragraph shall not apply to the insurance of risks related to marine and air transportation. Moreover, the provisions of the previous paragraph may be waived by decision of the Minister in charge of the Economy and Finance if it has been established that the insurance firms referred to in Article L310-2 are unable to provide insurance cover for a risk.

Article L310-10-1

(Act n°. 92-665 of 16 July 1992, Article 33, Official Journal of 17 July 1992 in force on 4 July 1993)

(Act n°. 94-5 of 4 January 1994, Article 14, Official Journal of 5 January 1994 in force on 1 July 1994)

The firms referred to in paragraph 3 of Article L310-2 are:

1 foreign firms that have their registered offices in a State party to the European Economic Space agreement that is not a member of the European Communities.

2 foreign firms that have their registered offices in Swiss Confederation and referred to in paragraphs 2 and 3 of Article L310-1.

For the application of this Book, the firms referred in paragraph 2 of this Article shall be subject to the same provisions as the firms that have their registered offices in a State party to the European Economic Space agreement that is not a member of the European Communities. However, Article L321-8 and title V of this Book shall not apply to them.

Article L310-11

(Act n°. 89-1014 of 31 December 1989, Article 31, Article 48, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, I, Official Journal of 5 January 1994 in force on 1 July 1994)

I Book III of this Code shall apply to the collectivité territoriale of Mayotte.

II The provisions of Article L310-1 to L310-3, L310-8 and L310-10, as this Code was drafted prior to the taking effect of Act n°. 91-716 of 26 July 1991 outlining various economic and financial provisions, shall apply in French overseas territories.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to

“Mayotte” and reference to the “collectivité territoriale” shall be replaced by reference to the “collectivité départementale”.

Section II : Insurance Supervisory commission

Article L310-12

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 92-665 of 16 July 1992, Article 16, Official Journal of 17 July 1992)

(Act n°. 94-5 of 4 January 1994, Article 15, I, II, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 94-679 of 8 August 1994, Article 1, IV, V, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 97-277 of 25 March 1997, Article 19, III, Official Journal of 26 March 1997)

(Act n°. 99-532 of 25 June 1999, Article 43, I, Official Journal of 29 June 1999)

(Act n°. 2001-420 of 15 May 2001, Article 42, I, Official Journal of 16 May 2001)

(Order n°. 2001-766 of 29 August 2001, Article 2, I, Official Journal of 31 August 2001)

An insurance regulatory commission with responsibility for controlling firms subject to State control pursuant to Article L310-1 has been established.

The commission shall ensure that insurance firms comply with the law or regulations applicable to insurance. It shall ensure that said firms respect the undertakings that they contracted with regard to the insured.

The commission shall ensure that the firms referred to in paragraphs 1, 3 and 4 of Article L310-2 are always able to respect the undertakings that they contracted with regard to the insured and have the prescribed solvency margin. For this purpose, it shall examine their financial situation and their conditions of activity.

The commission shall ensure that any insurance or capitalisation firm referred to paragraph 1 of Article L310-2 that plans to carry on activities for the first time within the framework of freedom of services on the territory of another member State of the European Communities or to modify the nature or conditions in which it carries said activities has an adequate administrative structure and financial situation having regard to its plans. If it considers that said conditions have not been met, the supervisory commission shall not provide the documents allowing the exercise of the desired activity to the regulatory authority of said other member State. A decree in Conseil d'Etat defines the conditions for the application of this paragraph, in particular, the prior measures of control and the time limit in which the commission must make a ruling.

The commission may decide to subject to control any individual or legal entity that has received from a firm referred to in article L310-1 a power to underwrite or manage, or that exercises insurance brokerage or presents insurance transactions in any account whatsoever.

The commission shall also ensure that firms subject to State control pursuant to Article L310-1, group insurance companies and mixed group insurance companies defined in Article L322-1-1 comply with the law and regulations applicable to them by virtue of this Book. An order

by the Minister for Economy shall determine the nature, periodicity and contents of the information and documents that the firms referred to in the first paragraph are bound to communicate from time to time to the insurance regulatory commission to enable it to carry out its duty.

The commission shall also ensure that the firms referred to in Article L310-1 as well as the individuals or legal entities referred to in the fifth paragraph and subject to its control apply the provisions of title VI of chapter V of the Monetary and Financial Code.

The term of office of the members of this commission on the date of publication of Act n°. 97-277 of 25 March 1997 that establish retirement savings plans is extended until 31 December 2000.

Article L310-12-1

(transferred by Act n°. 94-5 of 4 January 1994, Article 3, VI, Official Journal of 5 January 1994 in force on 1 July 1994)

The insurance regulatory commission comprised of five members appointed by order of the Minister in charge of the Economy and Finance for a five year term:

1 a member of the Conseil d'Etat, with at least the rank of senior official of the Conseil d'Etat, chairman, chosen among the members of the finance Article and proposed by the vice chairman of the Conseil d'Etat.

2 a member of the Cour de cassation, with at least the rank of judge of appeal, proposed by the first president of the Cour de Cassation.

3 a member of the Cour des comptes, with at least the rank of the counsellor and chief petty officer, proposed by the first chairman of the Cour des comptes.

4 two members chosen by reason of their experience in the area of insurance and financial issues.

The commission members may not receive payment from an insurance firm during their term of office and during the five years following expiry thereof.

Five deputies shall be appointed on the same terms.

In the event of tie, the chairman shall have a casting vote.

The director of the Treasury at the Ministry of Economy and Finance, or his representative, shall have a seat on the commission in his capacity of government commissioner.

Article L310-13

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 94-678 of 8 August 1994, Article 14, I, Official Journal of 10 August 1994)

(Act n°. 94-679 of 8 August 1994, Article 2, II, Official Journal of 10 August 1994 in force on 1 January 1995)

(Order n°. 2001-766 of 29 August 2001, Article 2, II, Official Journal of 31 August 2001)

The audit of firms referred to in Articles L310-1 and L310-1-1, of group insurance companies and mixed group insurance companies defined in Article L322-1-2 as well as the

persons referred to in the first paragraph of Article L310-12 shall be based on records and performed on the spot. The commission shall organise and define the methods of audit. The body of insurance auditors shall be made available to it for this purpose.

The members of the inspectorate general of social affairs shall also be made available to the commission, as required, on the terms defined by decree.

Article L310-14

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 94-679 of 8 August 1994, Article 2, II, Official Journal of 11 August 1994 in force on 1 January 1995)

(Order n°. 2001-766 of 29 August 2001, Article 2, III, Official Journal of 31 August 2001)

The commission may request the firms referred to in Article L310-1 and L310-1-1, group insurance companies and mixed group insurance companies defined in Article L322-1-2 as well as the persons referred to in the first paragraph of Article L310-12 to provide all information that it needs to carry out its duty.

It may also request them to provide auditors' reports and in general all accounting documents. It may, as required, request that such documents be certified.

It shall check that the publications that firms referred to in Articles L310-1 and L310-1-1 are required to make are properly carried out. It may order the concerned firms to publish corrective statements if inaccuracies or omissions have been noted. It may inform the public of all information that it considers necessary.

The insurance regulatory commission may request firms subject to additional supervision pursuant to Article L334-3 for data or information that it needs to carry out such supervision and which is held by their subsidiary firms. If such firms fail to provide such data or information, the supervisory commission may directly ask the subsidiary firms. However, in respect of a provident institution or union governed by title III of chapter IX of the French Social Security Code or a mutual or union governed by chapter II of the French Mutual Insurance Code, said supervisory commission shall send its request to the commission referred to in Article L951-1 of the French Social Security Code and in Article L510-1 of the French Mutual Insurance Code.

Firms subject to additional supervision whose registered offices are located in France shall send the data or information needed by the proper authorities of said State to carry out the additional supervision to their affiliated companies with registered offices in a member State of the European Community or in a State party to the European Economic Space agreement.

Article L310-15

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 2001-420 of 15 May 2001, Article 136, II, Official Journal of 16 May 2001)

(Order n°. 2001-766 of 29 August 2001, Article 2, IV, Official Journal of 31 August 2001)

The commission may decide, if so necessary to carry out its duty and within the limit thereof, to extend the audit performed on the spot of a firm referred to in Article L310-1 to its subsidiary firms within the meaning of paragraph 4 of Article L334-2 as well as to institutions of any kind that directly or indirectly have entered into a management, reinsurance agreement or an agreement of any other kind that may alter its operation independence or independence of decision in respect of any one of its spheres of activity. When one of the firms mentioned in this Article is a provident institution or a union governed by title III of Book IX of the French Social Security Code or a mutual or a union governed by Book II of the French Mutual Insurance Code, the extension of the commission's control consists of the collection of information from the authority with responsibility for controlling said firm. In any event, said extension of control shall may only concern a check of the actual financial situation of the audited insurance firm as well as a check of said firm's compliance with the undertakings that it contracted with regard to the insured or beneficiaries of the contract or to ensure that the legal entities directly or indirectly controlling it within the meaning of Article L233-3 of the Commercial Code and which belong to the same insurance group within the meaning of paragraph 6 of Article L334-2 of this Code are capable of participating any relief and safeguard measures in respect of said firm.

Audits performed on the spot may also, within the context of international agreements, be extended to branches or subsidiaries of insurance firms operating under French law established abroad.

Article L310-16

(inserted by Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

A report shall be drawn up in the event of an audit performed on the spot. If the controller makes comments, the firm shall be informed thereof. The commission shall take cognisance of the controller's comments and the firm's replies thereto.

The result of audits performed on the spot shall be communicated either to the board of directors or to the management board and supervisory board of the audited firm. They shall also be sent to the statutory auditors.

Article L310-17

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 94-5 of 4 January 1994, Article 15, III, Official Journal of 5 January 1994 in force on 1 July 1994)

When a firm referred to in paragraph 1, 3 or 4 of Article L310-2 breaches a law or regulation in an area within the remit of the supervisory commission or has an attitude that jeopardises its solvency margin or the performance of the undertakings that it contracted with regard to the insured, the commission, having given its corporate officers an opportunity make comments, may send it a warning.

It may also, on the same terms, send it an injunction to take all measures, within a given period of time, to restore or reinforce its financial equilibrium or to correct its practices.

Article L310-18

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 92-665 of 16 July 1992, Article 13, Official Journal of 17 July 1992)

(Act n°. 94-5 of 4 January 1994, Article 15, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 99-532 of 25 June 1999, Article 91, paragraph 2, Official Journal of 29 June 1999)

(Act n°. 2001-420 of 15 May 2001, Article 12, III, Official Journal of 16 May 2001)

If a firm referred to in paragraphs 1, 3 or 4 of Article L310-2 breaches a law or regulation applicable to its activity, the commission may impose one or more of the following disciplinary measures on it or its corporate officers, in relation to the seriousness of the breach:

1. Warning
2. Reprimand
3. Prohibition on carrying out certain transactions and any other restrictions on the pursuit of the activity
4. Temporary suspension of one or more of the firm's corporate officers
5. Total or partial withdrawal of licence
6. Ex officio transfer of all or part of the portfolio of contracts

In addition, the commission may impose a pecuniary penalty either instead of or in addition to said measures. The amount of said pecuniary penalty must be commensurate with the seriousness of the breaches committed, without exceeding 3 per cent of the revenues, exclusive of tax, made during the last year ended, calculated over a twelve month period. Said maximum shall be increased to 5 per cent in the event of a further breach of the same obligation. The relevant sums shall be paid to the Public Treasury. They shall be recovered as receivables of the State unrelated to tax and eminent domain.

In all cases referred to in this Article, the insurance regulatory commission shall decide after proceedings in which all parties are heard. The firm's managers shall be given an opportunity to make comments before the supervisory commission takes its decision. They may be represented or assisted.

The persons concerned by the disciplinary measures may, within two months following notice of the decision, institute proceedings before the Conseil d'Etat, in which it shall have unlimited jurisdiction.

When the supervisory commission imposes a disciplinary measure, the commission may, at the expense of the firm concerned by the disciplinary measure, order that its decision be published in three newspapers or publications that it names and that it be displayed at the places and for the time that it specifies.

The same shall apply if fails to comply with the order provided for in Article L310-7.

Article L310-18-1

(Act n°. 94-679 of 8 August 1994, Article 2, III, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 2001-420 of 15 May 2001, Article 136, III, Official Journal of 16 May 2001)

(Order n°. 2001-766 of 29 August 2001, Article 10, I, Official Journal of 31 August 2001)

When a group insurance company breaches a law or regulation applicable to it by virtue of this Book, the insurance regulatory commission may, after it has given its corporate officers the opportunity to make comments, send it a warning. It may, on the same terms, send it an order to take all measures so as to comply with the applicable rules within a given period of time.

The commission may also, when the firm breaches a law or regulation applicable to it or fails to comply with an order, issue a warning or a reprimand in accordance with the terms defined in Article L310-8. The commission may decide to publish the disciplinary measure imposed in accordance with the terms of the last paragraph of Article L310-18.

Moreover, the commission may, in accordance with the terms defined in Article L310-8, impose a pecuniary penalty either instead or in addition to said disciplinary measures. The maximum amount of the pecuniary penalty referred to in Article L310-18 shall be defined by reference to the revenue of the insurance firm included by total integration in the consolidation with the highest total of premiums issued during the last year ended.

Article L310-18-2

(inserted by Act n°. 2001-420 of 15 May 2001, Article 136, IV, Official Journal of 16 May 2001)

When a firm subject to State control pursuant to Article L310-1 breaches a law or regulation applicable to it by virtue of this Book, the insurance regulatory commission may, after it has given its corporate officers the opportunity to make comments, send it a warning.

It may, on the same terms, send it an order to take all measures so as to comply with the applicable rules within a given period of time. Moreover, the commission may, when the firm had not complied with the law or regulation in the area within the remit of the commission's control or has not complied with an order, impose one or more of the following disciplinary measures against it or its corporate officers in relation to the seriousness of the breach:

- 1 Warning
- 2 Reprimand
- 3 Prohibition on carrying out certain transactions and any other restrictions on the pursuit of the activity
- 4 Temporary suspension of one or more of the firm's corporate officers
- 5 Total or partial withdrawal of permission to underwrite reinsurance

The commission may decide to publish the disciplinary measure imposed in accordance with the terms of the last paragraph of Article L310-18.

The commission may also, in accordance with the terms defined by Article L310-18, impose a pecuniary penalty either instead of or in addition to said disciplinary measures. The amount of the pecuniary penalty shall be calculated in accordance with the provisions of Article

L310-18.

Article L310-19

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 94-679 of 8 August 1994, Article 2, IV, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 99-532 of 25 June 1999, Article 55, I, Official Journal of 29 June 1999)

(Order n°. 2001-766 of 29 August 2001, Article 2, V, Official Journal of 31 August 2001)

The insurance regulatory commission may request the statutory auditors of a firm referred to in Article L310-1, a firm referred to in Article L310-1-1, a group insurance firm or a mixed group insurance firm defined in Article L322-1-2 for any information on the activity of the institution concerned by the audit. The statutory auditors shall then be released from their professional secrecy with regard to it.

The statutory auditors shall be bound to notify the insurance regulatory commission as quickly as possible of any act concerning the firm or company referred to in the previous paragraph or any decision taken by its corporate officers coming to their attention in the course of their assignment that may:

- constitute a violation of the provisions of titles II to IV of Book IV and of chapter I of title IV of Book IV of this code that may have a significant impact on the financial situation, result or assets,
- harm the continuity of its activity,
- bring about a refusal to certify its accounts or the issue of reservations.

The same obligation shall apply to acts and decisions coming to their attention in the course of their assignment as statutory auditors of a parent company or subsidiary of the firm referred to in Article L310-1 or Article L310-1-1 or of companies referred to in Article L322-1-2 or a company within the perimeter of the preparation of combined accounts within the meaning of Article L345-2 whose accounts they certify.

The statutory auditors may not be held liable for information or disclosure of acts made pursuant to the obligations imposed in this Article.

Article L310-19-1

(inserted by Act n°. 99-532 of 25 June 1999, Article 55, II, Official Journal of 29 June 1999)

The insurance regulatory commission, when it is aware that a statutory auditor of a firm subject to its control has breached the provisions of Article 6 of chapter IV of title I of Act n°. 66-537 of 24 July 1966 relating to business corporations and of Article L310-19 of this code, may request the court with jurisdiction to remove the statutory auditor from office in accordance with the procedures provided for in Article 227 of aforementioned Act n°. 66-537 of 24 July 1966.

The insurance regulatory commission may also report said breach to the proper disciplinary authority. It may, for this purpose, disclose the information that it considers necessary

to properly inform said authority.

Article L310-20

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 98-546 of 2 July 1998, Article 40, I, Official Journal of 3 July 1998)

(Act n°. 99-532 of 25 June 1999, Article 54, Official Journal of 26 June 1999)

The insurance regulatory commission, the supervisory commission established under Article L951-1 of the French Social Security Code, the Securities and Exchange Commission (COB), the Banking Commission, the Financial Markets Board, the Financial management disciplinary council, the Competition Board, market firms and the clearing houses referred to in Article 68 of Act n°. 96-597 of 2 July 1996 relating to the modernisation of financial activities, the deposit guarantee fund established under Article 52-1 of aforementioned Act n°. 84-46 of 24 January 1984, the guarantee fund for insured established under Article L423-1 of this Code shall be authorised to exchange the information needed to carry out their respective assignments. The information thus gathered shall be covered by professional secrecy in force in accordance with the terms applicable to the institution that disclosed same and to the recipient institution.

Article L310-21

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 92-1336 of 16 December 1992, Article 333, Official Journal of 23 December 1992 in force on 1 March 1994)

(Act n°. 99-532 of 25 June 1999, Article 64 and Article 91, paragraph 3, Official Journal of 29 June 1999)

(Order n°. 2001-766 of 29 August 2001, Article 2, VI, Official Journal of 31 August 2001)

The members as well as the officials of the insurance regulatory commission shall be bound by professional secrecy under the penalties imposed by Article 226-13 of the Penal Code. Said secrecy shall not be binding on the judicial authority acting in the scope of criminal proceedings.

The insurance regulatory commission may send information to the authorities with responsibility for supervising insurance firms in other countries, subject to reciprocity, and on condition that said authorities are themselves bound by professional secrecy with the same guarantees as in France.

Notwithstanding the provisions of Act n°. 68-678 of 26 July 1968 relating to the disclosure of documents and economic, commercial, industrial, financial or technical information to foreign individuals or legal entities, the insurance regulatory commission may also enter into bilateral agreements with the insurance regulatory authorities of countries that are not parties to the European Economic Space agreement, on condition that said authorities are themselves bound by professional secrecy, for the purpose, in addition, to the exchange of information provided for in

the previous paragraph, of extending the Commission's audits performed on the spot to the branches or subsidiaries of insurance firms subject to its control which are located within the territorial jurisdiction of the contracting authority and, vice versa, to enable said authority to participate in audits performed on the spot of French branches or subsidiaries of insurance firms subject to its control. At the request of said authority, the insurance regulatory commission shall perform audits on the spot of French branches or subsidiaries of insurance firms subject to the control of said foreign authority or, where applicable, jointly with it. Only the insurance regulatory commission may impose penalties with regard to the branch or subsidiary audited in France. The insurance regulatory commission may refuse the foreign authority's request for assistance when the implementation of the request is liable to violate the sovereignty, security, essential economic interests or French public policy or when any criminal proceedings have already been instituted in France on the basis of the same acts and against the same persons or else when the latter has already been penalised by a final decision for the same acts. When the authorities of a State member of the European Economic Community or another State party to the European Economic Space agreement wishes to check information relevant to their supervision of a company located in France and which is a firm affiliated to an insurance firm subject to their additional supervision, the insurance regulatory commission must satisfy to their request either by carrying out said check itself or by allowing representatives of said authorities to do so.

Article L310-22

(Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

(Act n°. 94-679 of 8 August 1994, Article 2, V, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 99-532 of 25 June 1999, Article 91, paragraph 4, Official Journal of 29 June 1999)

When the commission discovers acts that may justify criminal proceedings, it shall send the file with a reasoned opinion to the public prosecutor with territorial jurisdiction, without prejudice to the penalties that it may impose pursuant to Article L310-18 or Article L310-18-1. If the seriousness of the acts discovered justifies such measure, the file shall be sent to the public prosecutor before the joint report referred to in Article L310-16 has been prepared.

Article L310-23

(inserted by Act n°. 89-1014 of 31 December 1989, Article 31, Official Journal of 3 January 1990 in force on 25 June 1990)

When the commission discover anti-competitive practices within the meaning of Articles 7 and 8 of Order n°. 86-1243 of 1 December 1986 relating to the freedom of prices and competition, it shall inform the Minister in charge of the Economy and Finance thereof.

Article L310-25

(Act n°. 94-5 of 4 January 1994, Article 3, VII, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 94-475 of 10 June 1994, Article 95, Official Journal of 11 June 1994 in force on 1 October 1994)

(Act n°. 94-679 of 8 August 1994, Article 2, VI, Official Journal of 10 August 1994 in force on 1 January 1995)

(Order n°. 2001-350 of 19 April 2001, Article 6, XIX, Official Journal of 22 April 2001)

The judicial rehabilitation or liquidation established by the aforementioned Act n°. 85-98 of 25 January 1985 may be opened with regard to a firm referred to in Articles L310-1 or L310-1-1 only upon application of the insurance regulatory commission. The court may also act of its own motion or the public prosecutor may submit an application to open said proceedings to the court after obtaining the consent of the insurance regulatory commission. The provisions of Article L326-4 shall apply to the judicial rehabilitation proceedings.

An application to open the friendly settlement proceedings established by Act n°. 84-148 of 1 March 1984 relating to the prevention and friendly settlement of the difficulties that firms experience with regard a firm referred to above may be referred to the presiding judge of the court only after the consent of the insurance regulatory commission has been obtained.

Section IV : Penalties

Article L310-26

(transferred by Act n°. 94-5 of 4 January 1994, Article 3, VIII, Article 16, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any violation of the provisions of Article L310-10 shall be punished by a fine of FRF 30,000 and, in the event of a repetition of a breach, of FRF 60,000. The judgement shall be published at the costs of the convicted persons or of the firms legally liable.

Article L310-27

(Act n°. 94-5 of 4 January 1994, Article 3, VIII, Article 16, II, Official Journal of 5 January 1994 in force on 1 July 1994)

(Order n°. 96-267 of 28 March 1996, Article 14, Official Journal of 31 March 1996 in force on 1 May 1996)

Should one of the transactions referred to in paragraphs 1, 2 and 3 of Article L310-1 be underwritten in France in violation of the provisions of Articles L310-2 and L310-6, such act shall be punished by a three year prison sentence and a fine of FRF 500,000.

When an individual commits one of the offences provided for in the previous paragraph, in accordance with the terms of Article 712-2 of the Penal Code, the publication of the decision may be ordered as an additional penalty.

In accordance with the terms of Article 121-2 of the Penal Code, legal entities may be held

criminally liable for the same offences. They shall incur the following penalties:

1 a fine, in accordance with the provisions of Article 131-38 of the Penal Code,

2 the penalty referred to in paragraph 4 of Article 131-39 of the Penal Code,

Persons who in good faith contracted a contract with a firm whose closure is ordered by court shall enjoy the same liens and covers as those that this Code reserves to policyholders and beneficiaries of contracts in the event of the liquidation of an insurance firm.

Article L310-28

(Act n°. 94-5 of 4 January 1994, Article 3, VIII, Article 16, III, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 94-679 of 8 August 1994, Article 3, I, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 99-532 of 25 June 1999, Article 44 and Article 91, paragraph 5, Official Journal of 29 June 1999)

(Order n°. 2001-766 of 29 August 2001, Article 10, III, Official Journal of 31 August 2001)

Should any corporate officer of a group insurance company or a mixed group insurance company defined in Article L322-1-2 or a firm subject to State control pursuant to Article L310-1 or L310-1-1, after a formal demand, fail to reply to requests for information by the insurance regulatory commission or prevent it in any way from carrying out its duty of control assignment or knowingly provide it with incorrect information, he shall be punished by a two year prison sentence and a fine of FRF 2,000,000. Any impediments to the insurance regulatory commission's action carried out pursuant to Article L323-1-1 shall be punished by the same penalties. The same provisions shall apply to the corporate officers of legal entities and individuals that the insurance regulatory commission decides to control pursuant to the fifth paragraph of Article L310-12.

Should the same persons make false statements or make fraudulent concealments in any document submitted to the Minister for Economy and Finance, the same penalties shall be applicable to them.

The same penalties shall also be applicable to any one, who in the course of activities governed by this Code, makes false statements in any document brought to the attention of the public or customers.

Legal entities may also be held criminally liable in accordance with the terms of Article 121-2 of the Penal Code for offences defined in this Article and, in this case, a fine shall be applicable in accordance with the provisions of Article 131-38 of the Penal Code.

Title II

Administrative scheme

Chapter I: Licences

Section I : Administrative licence of French firms

Article L321-1

(Act n°. 83-453 of 7 June 1983, Article 2, Official Journal of 8 June 1983)

(Act n°. 85-608 of 11 June 1985, Article 11, Official Journal of 20 June 1985)

(Act n°. 89-1014 of 31 December 1989, Article 55, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 91-716 of 26 July 1991, Article 1, IV, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 94-5 of 4 January 1994, Article 1, I, IV, Article 8, II, Article 9, II, Article 17, I, Official Journal of 5 January 1994 in force on 1 July 1994)

The firms referred to in paragraph 1 of Article 310-2 may start their transactions only after they have been granted licence. However, in respect of acceptance transactions in reinsurance, said authorisation is not required.

The authorisation shall be granted upon application by the firm for the transactions of one or more insurance branches. The firm may only underwrite transactions for which it has been granted authorisation.

The same firm may not be granted licence for the transactions defined in paragraph 1 of Article L310-14 and for those defined in the paragraph 3 of the same Article.

The same firm may not be granted licence for the transactions defined in the last paragraph of Article L310-1 and for those defined in paragraphs 1, 2, 3 of the same Article.

A tontine-like firm may not be granted licence for transactions other than in tontine form.

Section I : Administrative licences

Article L321-1-1

(Act n°. 89-1014 of 31 December 1989, Article 19, Article 20, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 16, I, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 17, II, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 2001-420 of 15 May 2001, Article 136, V, Official Journal of 16 May 2001)

The firms referred to in Article L310-1-1 may start their transactions only after they have been granted permission to underwrite reinsurance.

A decree in Conseil d'Etat shall specify the terms of application of this Article, in particular, in respect of reinsurance firms established on the date of publication of Act n°. 2001-420 of 15 May 2001 relating to new economic regulations and subject to State control pursuant to Article L310-1-1.

Section I : Licence of French firms

Article L321-2

(Act n°. 83-453 of 1989, Article 22, Article 50, Official Journal of 3 January 1990 in force on 1 July 1990)

(transferred by Act n°. 94-5 of 4 January 1994, Article 1, I, IV, Article 18, I, Official Journal of 5 January 1994 in force on 1 July 1994)

The Minister in charge of the Economy and finance shall inform the Commission of the European Communities of any decision to authorise another firm controlled by a firm whose registered office is established in a State not party to the European Economic Space agreement. The control is extended to, in the sense of articles 355-1 and 357-1 of Act n°. 66-537 of 24 July 1966 relating to business corporations.

Upon application by the proper authority of the European Communities based on the discovery that insurance firms having their registered offices in a member State of the Community do not have access to the market of a State not party to the European Economic Space agreement or does not enjoy the same treatment as firm having their registered offices there, the Minister shall stay any decision to authorise a firm controlled by a firm having its registered office in said State for a three month period. The three month period may be extended by decision of the Council of the Communities.

The provisions of the previous paragraph shall not apply to the establishment of an insurance firm controlled by an insurance firm that it already established on the territory of a member State of the European Communities.

When, for a three month period that may be extended by decision of the Council of the Communities, the Commission of the European Communities decides to order that any decision to authorise insurance firms that are direct or indirect subsidiaries of firms governed by the law of a third party country be stayed, the licence granted during the aforementioned period to said firms by the proper authority of a State party to the European Economic Space agreement not party to the European Community shall not entail any legal effect in France during said period and in particular shall not entitle the firm in question to carry out insurance transactions.

Article L321-3

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 1, I, Article 18, II, Official Journal of 5 January 1994 in force on 1 July 1994)

Any firm licensed in accordance with the provisions of Article L321-1 and wishing to establish a branch in another member State of the European Communities shall notify its plan to the Minister for Economy and Finance. The list of documents to be submitted in support to said notice shall be determined by order of said minister.

If the minister considers that the administrative structures or financial situation of the firm in question or the honourability, qualification or professional experience of the corporate officers of the firm or general agent are adequate considering the submitted plan, he shall send said information within three months as from receipt of the complete documents to the proper authority of the State of the branch. He shall advise the firm of said disclosure. The firm may then

start its activities within the time and in accordance with the terms defined by the aforementioned order.

Article L321-4

(Act n°. 81-5 of 7 January 1981, Article 36, I, Official Journal of 8 January 1981)

(Act n°. 89-1014 of 31 December 1989, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 1, I, Article 18, II, Official Journal of 5 January 1994 in force on 1 July 1994)

When the minister refuses to send the information referred to in the previous Article to the proper authority of the State of the branch, it shall explain the reasons for said refusal to the firm in question within the three month period referred to in the previous Article.

Article L321-5

(Act n°. 81-5 of 7 January 1981, Article 36, I, Official Journal of 8 January 1981)

(Act n°. 89-1014 of 31 December 1989, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 1, I, Article 18, II, Official Journal of 5 January 1994 in force on 1 July 1994)

I Any plan to modify the nature or terms applicable to the activities of the branch referred to in Article L321-3 shall be notified to the Minister for Economy and Finance. In such case, the procedure described in the second paragraph of Article L321-3 and Article L321-4 shall apply within one month as from receipt of the notice.

II A decree in Conseil d'Etat shall specify the terms of application of Articles L321-3, L321-4 and I of this Article.

Section II : Licence of non Community firms whose registered offices are located in a member State of the European Economic Space

Article L321-7

(inserted by Act n°. 94-5 of 4 January 1994, Article 1, I, Article 19, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Firms subject to State control pursuant to Article L310-1 and referred to in the paragraph 3 of Article L310-2 may start their transactions under arrangements in respect of the right of establishment in France only after they have been granted licence. Said licence is not required for acceptance transactions in reinsurance.

The licence referred to in the first paragraph of this Article shall be granted in accordance with the provisions of the second and third paragraphs of Article L321-1.

Article L321-8

(inserted by Act n°. 94-5 of 4 January 1994, Article 1, I, Article 19, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Firms referred to in paragraph 5 of Article L310-2 may not cover or take the risks referred to in Article L351-5 or the undertakings referred to in Article L353-5 in France, through the freedom of services, unless they have received the licence for free provision of services referred to in said articles.

The licence referred to in the previous paragraph shall be granted by the Minister in charge of the Economy and Finance in accordance with the terms defined in the first two paragraphs of Article L321-10.

A decree in Conseil d'Etat defines the methods of calculating technical reserves for said contracts, the presentation rules of said reserves and rules applicable to the location of assets representing reserves.

Section III : Special licence for firms whose registered offices are located in a State non member of the European Economic Space

Article L321-9

(transferred by Act n°. 94-5 of 4 January 1994, Article 1, I, II, Article 19, II, Official Journal of 5 January 1994 in force on 1 July 1994)

Firms referred to in paragraph 4 of Article L310-2 may underwrite transactions subject to State control pursuant to Article L310-1 in France only after they have received an administrative licence issued in accordance with the provisions of the second and third paragraphs of Article L321-1 and a special licence in respect of the acceptance of a general agent. The licence shall be issued by the Minister for Economy and Finance. Said firms may also be compelled to provide a surety bond or security if their country took or were to take similar measures with regard to French firms.

A decree in Conseil d'Etat defines the provisions for the application of the previous paragraph and in particular outlines the conditions that the general agent must satisfy.

Section IV : Conditions of licences

Article L321-10

(Act n°. 94-5 of 4 January 1994, Article 1, I, III, Article 20, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 99-532 of 25 June 1999, Article 53, I, Official Journal of 29 June 1999)

(Act n°. 2001-420 of 15 May 2001, Article 11, I and 12, II, Official Journal of 16 May 2001)

The Minister, to grant or refuse the administrative licences provided for in Articles L321-1, L321-7 and L321-9, after hearing the opinion of the proper commission of the national insurance board, shall take account of:

- the technical and financial resources of whose implementation is proposed and their suitability to the firm's programme of activity,
- the honourability, expertise and experience of the persons with responsibility for management of the firm, which shall be assessed in accordance with the conditions defined in Article L322-2,
- the breakdown of its capital and the shareholder status or for the companies referred to in Article L322-26-1, the procedures for setting up the establishment fund.

The Minister shall refuse licence, after he has had heard the opinion of the insurance regulatory commission, if the exercise of the duty of supervision of the firm is liable to be hampered either by the existence of capital links or of direct or indirect control between the applicant firm and other individuals or legal entities or by the existence of legislative, regulatory or administrative provisions of a State not party to the European Economic Space agreement and which govern one or more of said persons.

The list of documents to be submitted in support of an application for licence submitted in accordance with the provisions of Articles L321-1, L321-7, L321-8 and L321-9 of the Insurance Code is defined by order of the Minister in charge of the Economy and Finance for each type of licence.

The granting of a licence may be subjected to the respect of undertakings contracted by the applicant firm.

Article L321-10-1

(inserted by Act n°. 2001-420 of 15 May 2001, Article 136, VI, Official Journal of 16 May 2001)

The minister, to grant or refuse permission to underwrite the reinsurance provided for in Article L321-1-1, shall take account of:

- the breakdown of its capital and the shareholder status or for the companies referred to in Article L322-26-1, the procedures for setting up the establishment fund,
- the honourability and qualification of the persons with responsibility for management of the firm,
- the technical and financial resources of which implementation is proposed in order to guarantee the firm's solvency considering its programme of activity.

The Minister shall refuse permission, after he has had heard the opinion of the insurance regulatory commission, when the assignment to supervise the firm is liable to be hampered either by the existence of capital links or of direct or indirect control between the applicant firm and other individuals or legal entities or by the existence of legislative, regulatory or administrative provisions of a State not party to the European Economic Space agreement and which govern one or more of said persons.

The list of documents to be submitted in support of an application for authorisation submitted in accordance with the provisions of Articles L321-1-1 is defined by order of the

Minister for Economy and Finance.

Section V : Provisions specific to overseas departments and territories and collectivité territoriale of Mayotte

Article L321-11

(Transferred by Act N° 94-5 of 4 January 1994 art. 1 I, art. 42 II Official Journal of 5 January 1994 in force on 1st July 1994)

The provisions of chapter I of title II of Book III, in the wording of this Code prior to the entry in force of Act N° 91-716 of 26 July 1991 on various provisions of economic and financial nature, are applicable in the territories of overseas.

Chapter II

Rules of formation and operation

Section I : Common provisions

Article L322-1

(Act n°. 89-1014 of 31 December 1989, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 91-716 of 26 July 1991, Article 1, VI, Official Journal of 27 July 1991 in force on 20 November 1992)

(transferred by Act n°. 94-5 of 4 January 1994, Article 3, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any French firm referred to in Article L310-1 must be established as a stock company or a mutual insurance company.

Article L322-1-1

(inserted by Act n°. 99-532 of 25 June 1999, Article 53, II, Official Journal of 29 June 1999)

The headquarters of French insurance firms must be located in France.

Article L322-1-2

(inserted by Order n°. 2001-766 of 29 August 2001, Article 3, Official Journal of 31 August 2001)

In this Code:

1 The expression “group insurance company” means firms whose main activity consists of acquiring and managing holdings within the meaning of paragraph 2 of Article L334-2 in firms

subject to State control pursuant to Article L310-1 or Article L310-1-1 or in insurance or reinsurance firms whose registered offices are located outside France or in establishing or managing substantial long term financial solidarity links with mutuals, pension bodies or unions governed by Book II of the French Mutual Insurance Code, provident institutions or unions governed by title III of Book IX of the French Social Security Code, mutual insurance companies governed by the insurance code or mutual or co-operative insurance or reinsurance firms or such firms under joint management having their registered offices in a member State of the European Union or in another State party to the European Economic Space agreement. At least one of said institutions shall be a firm subject to State control pursuant to Article L310-1 and have its registered office in France.

2 The expression “mixed group insurance companies” means parent companies within the meaning of paragraph 1 of Article L334-2 of at least one firm subject to State control pursuant to Article L310-1 and having its registered office in France other than the group insurance companies defined in the previous paragraph, firms subject to State control pursuant to Article L310-1 or Article L310-1-1, mutuals, pension bodies or unions governed by Book II of the French Mutual Insurance Code, provident institutions or unions governed by title III of Book IX of the French Social Security Code or mutual or co-operative insurance or reinsurance firms or such firms under joint management having their registered offices in another member State of the European Community or party to the European Economic Space agreement and insurance firms whose registered offices are located outside France.

Article L322-1-3

(inserted by Order n°. 2001-766 of 29 August 2001, Article 4, Official Journal of 31 August 2001)

When a group insurance company has substantial long term financial solidarity links that are not the result of holdings within the meaning of paragraph 2 of Article L334-2 with a subsidiary firm within the meaning of paragraph 4 of Article L334-2, said links shall be defined in an affiliation agreement.

A mutual insurance company may be affiliated to a group insurance company only if its statutes expressly provide for such possibility.

The group insurance company may decide to operate without share capital on condition that it has at least two subsidiary firms, at least one of which is a mutual insurance company. Moreover, subsidiary firms must be mutuals, pension bodies or unions governed by Book II of the French Mutual Insurance Code, provident institutions or unions governed by title III of Book IX of the French Social Security Code, mutual insurance companies governed by the Insurance Code or mutual or co-operative insurance or reinsurance firms or such firms under joint management having their registered offices in another member State of the European Community or party to the European Economic Space agreement. If it fails to satisfy such conditions, the group insurance company may be referred to as “group mutual insurance company”. The conditions of the functioning of said group mutual insurance company are defined by decree in Conseil d’Etat.

Article L322-2

(Act n°. 89-1014 of 31 December 1989, Article 40, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-1336 of 16 December 1992, Article 372, Official Journal of 23 December 1992 in force on 1 March 1994)

(Act n°. 94-5 of 4 January 1994, Article 21, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 94-679 of 8 August 1994, Article 3, II, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 2001-420 of 15 May 2001, Article 12, I and Article 42, II, Official Journal of 16 May 2001)

(Order n°. 2001-766 of 29 August 2001, Article 10, I, Official Journal of 31 August 2001)

No one may in any respect whatsoever establish, run or manage a firm subject to State control pursuant to Article L310-1 or Article L310-1-1 or a group insurance company defined in Article L322-1-2:

1 if sentenced:

- a) for a crime,
- b) for violation of the provisions of Articles 441-1, 151-1, 432-11 and 441-8, 433-2, 433-1, 433-3, 441-8 and 52-1 of the Penal Code,
- c) for theft, fraud or breach of trust,
- d) to the penalties provided for in Articles 313-1 to 313-4 and 1 of the Penal Code for an offence punished under special laws,
- e) for theft committed by public depositories, extortion of funds or assets, bankruptcy, harm to the State's credit status or violation of foreign exchange laws,
- f) pursuant to the provisions of title II of Act n°. 66-537 of 24 July 1966 relating to business corporations, Articles 6 and 15 of Act n°. 66-1010 of 28 December 1966 relating to usury, money lending and certain canvassing and advertising transactions, Article 10 of Act n°. 72-6 of 3 January 1992 relating to selling of financial services and investment and insurance transactions or Article 40 of Act n°. 83-1 of 3 January 1983 relating to the growth of investments and the protection of savings,
- g) for receiving property obtained as a result of said offences,
- h) pursuant to the provisions of Articles 75 and 77 to 84 of Act n°. 84-46 of 24 January 1984 relating to the business and supervision of credit institutions,
- i) pursuant to Articles 222-38, 324-1 and 324-2 of the Penal Code or Article 415 of the Customs Code,

2 if sentenced to a term of imprisonment in excess of two months pursuant to Article 66 of the decree of 30 October 1935, as amended, which codifies the law relating to cheques,

3 if sentenced by a foreign court and if such sentence has become *res judicata*, which constitutes a sentence under French law for one of the crimes or offences referred to in this Article. The criminal court with territorial jurisdiction at the convicted person's place of residence shall judge the regularity and lawfulness of such decision, upon application by the public prosecutor, and rule in the court chambers on the application of the prohibition in France; the concerned party shall be duly joined in the proceedings.

4 If a measure of personal bankruptcy or another measure of prohibition provided for

under Articles 185 to 195 of Act n°. 85-98 of 25 January 1985 relating to the judicial rehabilitation and liquidation of firms or, under earlier regulations, Article 108 of Act n°. 67-563 of 13 July 1967 relating to judicial insolvency procedure, the liquidation of property, personal bankruptcy and bankruptcies has been imposed on such person or if such person has been declared bankrupt by a foreign court when the declaratory judgement has been declared enforceable in France and if such person has not been discharged.

5 If a measure to remove such person from his office as judicial officer has been imposed pursuant to a court decision.

The courts may also impose said prohibitions on any person sentenced for violation of insurance law or regulations. Persons who establish, run or manage a firm or company referred to in the first paragraph must have the expertise and experience required to carry out their duties. The provisions of this Article shall apply to the general agents appointed by firms operating under arrangements in respect of the right of establishment.

Article L322-2-1

(Act n°. 88-1201 of 23 December 1988, Article 52, Official Journal of 31 December 1988)

(Act n°. 88-1014 of 31 December 1989, Article 54, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 96-314 of 12 April 1996, Article 8, I, Official Journal of 13 April 1996)

(Order n°. 2001-350 of 19 April 2001, Article 6, XX, Official Journal of 22 April 2001)

I - Mutual insurance companies and mutual agricultural insurance and reinsurance funds subject to licence may issue bonds, equity loans or subordinated bonds in accordance with the terms of chapter V of title I (Articles 263, 266 and 339-7, chapters II b and III) of Act n°. 66-537 of 24 July 1966 relating to business corporations and subject to the penalties provided for under Article 441 and, for bonds, under Articles 470, 471 (1 and 3), 472, 473, 474 (1 to 5), 475 to 478 of said Act. The issue may be made by inviting investment by the public and shall then be subject to control by the Securities and Exchange in accordance with the terms of order n°. 67-833 of 28 September 1967.

For the application of the aforementioned Act n°. 66-537 of 24 July 1966, the word “shareholders” means the “members”. Penalties relating to the board of directors, management board or company manager provided for under the provisions referred to in the previous paragraph shall apply to persons or bodies with responsibility for management in accordance with the company’s statutes.

Prior to the issue of bonds, equity loans or subordinated bonds, any company or fund in question must be registered with the trade and companies register.

II - Notwithstanding Article 287 of the aforementioned act, the members’ general meeting shall be solely empowered to define the main features of the issue of bonds, equity loans or subordinated bonds. However, it may delegate to the board of directors, in the framework thus defined, the powers required to determine the practical arrangements thereof. The board of directors shall submit a report on said delegation to the very next general meeting. The issue contracts may in any case be devised to favour a category of members, persons tied to the company by an employment contract, its de jure or de facto corporate officers or any other persons.

Contracts signed in violation of this provision shall be nul and void.

III – In respect of the remuneration of equity loans, the variable part may not be calculated by reference to a criterion that represents the issuer company's volume of business.

IV – A decree in Conseil d'Etat defines the provisions for application of this Article, in particular, in respect of the control of said issues by the insurance regulatory commission.

Article L322-2-2

(Act n°. 89-1014 of 31 December 1989, Article 39, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-679 of 8 August 1994, Article 1, VI, Official Journal of 10 August 1994 in force on 1 January 1995)

Transactions other than those referred to in Articles L310-1 and L310-1-1 and in Article 3 of Act n°. 72-6 of 3 January 1972 relating to the canvassing of financial services and investment and insurance transactions may be carried out by the firms referred to in Articles L310-1 and L310-1-1 only if the scope thereof is limited in relation to the firm's entire business. A decree in Conseil d'Etat defines the provisions for the application of this Article.

Article L322-2-3

(transferred by Act n°. 94-5 of 4 January 1994, Article 2, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Firms subject to State control pursuant to Article L310-4 that underwrite legal expense insurance shall opt for one of the following procedures for functioning:

- the members of the staff responsible for managing losses of the "legal expense" branch or of legal advice relating to said management may not simultaneously carry on a similar activity in another branch underwritten by the firm that employs them or in another firm that has financial, business or administrative links with the latter.

- losses of the "legal expense" branch shall be entrusted to a legally independent firm.

- the insured is entitled under the legal expense insurance contract to entrust the defence of his interests from the moment that he is entitled to claim insurance cover under the policy to a lawyer or a qualified person of his choice.

A decree in Conseil d'Etat defines the provisions for the application of this Article.

Article L322-2-4

(Act n°. 98-546 of 2 July 1998, Article 67, I, Official Journal of 3 July 1998)

(Act n°. 99-532 of 25 June 1999, Article 42, Official Journal of 29 June 1999)

At the closure of each financial year, the board of directors or management board shall draw up a written solvency report. Said report shall explain how the firm, by creating adequate technical reserves whose methods of calculation and assumptions adopted are explained and

justified, guarantees its undertakings to the insured. The report shall recall the defined orientations in relation to investment, present and analyse the results obtained and state if the solvency margin has been formed in accordance with the applicable regulations. The solvency report must analyse how the firm will be able to face all of its undertakings in the medium and long term. The solvency report referred to in the previous paragraph shall be sent to the statutory auditors and to the insurance regulatory commission.

Article L322-3

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, III, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of section I of chapter II of title II of Book III, as this code was drafted prior to Act n°. 91-716 of 26 July 1991 outlining various economic and financial provisions, shall apply to French overseas territories.

Section II : Public limited insurance and capitalisation companies

Article L322-4

(Act n°. 89-1014 of 31 December 1989, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 22, I, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 2001-420 of 15 May 2001, Article 11, II, and Article 14, Official Journal of 16 May 2001)

(Order n°. 2001-766 of 29 August 2001, Article 5, Official Journal of 31 August 2001)

To protect the interests of the insured, the acquisition, extension or assignment of direct or indirect holdings in the firms referred to in paragraph 1 of Article L310-2 may be subject a prior declaration or permission procedure in accordance with the terms defined by decree in Conseil d'Etat. Said provisions shall also apply to acquisitions, extensions or assignments of holdings in group insurance companies whose registered offices are located in France.

The permission granted for the transactions referred to in the first paragraph may be made conditional on one or more persons who filed an application for permission complying with their undertakings.

In the event of breach of the requirements enacted by decree in Conseil d'Etat referred to in the first paragraph of this Article and without prejudice to the provisions of Article 356-4 of Act n°. 66-537 of 24 July 1966 relating to business corporations, upon application by the Minister for Economy and Finance, the public prosecutor, the insurance regulatory commission or any shareholder, the court shall suspend exercise of the voting rights attached to shares or proprietorship equity held unlawfully, either directly or indirectly, in the firms referred to in the

first paragraph of this Article, until curing the situation.

Any person who envisages filing a draft public offer with the Financial Markets Board pursuant to chapter III of title III of chapter IV of the Monetary and Financial Code in order to acquire a specific quantity of securities of an insurance firm licensed to operate in France shall be bound to inform the Minister for Economy thereof two working days prior to filing said draft offer or its public announcement if it predates the offer.

Article L322-4-1

(transferred by Act n°. 94-5 of 4 January 1994, Article 2, II, Article 22, II, III, Official Journal of 5 January 1994 in force on 1 July 1994)

The Minister in charge of the Economy and Finance shall inform the Commission of the European Communities of any acquisition of holdings that may grant control of a firm referred to in Article L310-1 and referred to in paragraph 1 of Article L310-2 to a firm whose registered office is located in a State not party to the European Economic Space agreement. Control is defined under Articles 355-1 and 357-1 of Act n°. 66-537 of 24 July 1966 relating to business corporations.

Upon application by the proper authority of the European Communities, in the circumstances referred to in the second paragraph of Article L321-2, the Minister shall object during a three month period to any acquisition of holdings liable to have the consequences referred to in the previous paragraph.

The provisions of the previous paragraph shall not apply to acquisitions of holdings liable to grant the control of an insurance firm referred to in Article L310-1 to a firm that is already established on the territory of a State party to the European Economic Space agreement.

Section III: National insurance and capitalisation firms, and central insurance companies

Paragraph I : Establishment

Article L322-5

(Act n°. 92-665 of 16 July 1992, Article 2, I, Official Journal of 17 July 1992)

Subject to the waivers set out in this Article, insurance and capitalisation firms nationalised pursuant to Article 1 of Act n°. 46-835 of 25 April 1946, relating to the nationalisation of certain insurance companies and the insurance industry in France, shall have the status of business corporations.

Article L322-12

(Act n°. 77-574 of 7 June 1977, Article 37, III, IV, V, Official Journal of 8 June 1977)

(Act n°. 86-912 of 6 August 1986, Article 7, I, Official Journal of 7 August 1986)

(Act n°. 89-1014 of 31 December 1989, Article 35, Official Journal of 3 January 1990 in force on 26 February 1990)

(Act n°. 92-665 of 16 July 1992, Article 2, III, Official Journal of 17 July 1992)

The role of central insurance companies established by Act n°. 73-8 of 4 January 1973 relating to the implementation of shareholding by the staff in national banks and national insurance firms is to directly or indirectly hold all of the shares of the companies forming the groups of national insurance firms, to exercise the rights attached to said shares and to grant said rights to their own shareholders.

The provisions of Articles 95 and 111 of Act n°. 66-537 of 24 July 1966 shall not apply to central insurance firms. The provisions of the same Act shall not preclude the application of this section.

Article L322-13

(Act n°. 891014 of 31 December 1989, Article 35, Official Journal of 3 January 1990 in force on 26 February 1990)

(Act n°. 92-665 of 16 July 1992, Article 1, Official Journal of 17 July 1992)

Central insurance firms are public limited companies belonging to the public sector pursuant to aforementioned Act n°. 46-835 of 25 April 1946 and the aforementioned Act n°. 73-8 of 4 January 1973.

Paragraph II : Management

Article L322-14

(Act n°. 89-1014 of 31 December 1989, Article 35, Official Journal of 3 January 1990 in force on 26 February 1990)

National insurance firms referred to in Article L322-5 may be managed by the board of directors of the central company of their group. They may also have the same président-directeur général as the central company.

The right provided for in the first paragraph above shall be implemented by decision of the general meeting of shareholders of the national insurance firm.

Article L322-15

Boards of directors of central insurance firms shall include, in addition to the président-directeur général:

- a) three directors represented by State appointed by the Minister for Economy and Finance,
- b) a director appointed by reason of his technical expertise by the Minister for Economy and Finance, after hearing the opinion of the national insurance board. A second director shall be appointed on the same terms when the shareholders other than the State are represented by only one director,
- c) three directors representing respectively the wage-earning staff, the staff of executives,

inspectors and general agents. Said three directors shall be appointed by the Minister with responsibility for Social Affairs based on a proposal by the most representative trade union organisations,

d) three directors representing the insured, appointed by the Minister for Economy and Finance, based on a proposal by the national organisations of producers and consumers most qualified by insurance branch to participate in the management of the firms in question,

e) one or two directors representing shareholders other than the State, depending on whether their shareholding of the central insurance companies exceeds or does not exceed 10%. At least one of said directors shall represent individual shareholders. Said directors shall be appointed according to the procedures defined by decree in Conseil d'Etat.

Paragraph III : Distribution and transfer of the shares of central insurance companies

Article L322-22

(Act n°. 89-1014 of 31 December 1989, Article 35, Official Journal of 3 January 1990 in force on 26 February 1990)

Subject to the provisions of Article L322-13, the shares of central insurance companies may:

- a) either be distributed free of charge to members of the staff of national insurance companies,
- b) or be transferred for valuable consideration.

Article L322-23

(Act n°. 89-1014 of 31 December 1989, Article 35, Official Journal of 3 January 1990 in force on 26 February 1990)

A decree in Conseil d'Etat defines the terms and conditions applicable to the distribution of shares free of charge provided for in Article L322-22. When shares have been distributed free of charge to the staff, account shall be taken of the seniority of employees and of their ranks in the firm.

Article L322-24

(Act n°. 89-1014 of 31 December 1989, Article 35, Official Journal of 3 January 1990 in force on 26 February 1990)

The shares of central insurance companies shall be in registered form.

Shares assigned for valuable consideration or free of charge in accordance with Article L322-22 shall be marketable on the financial market at the end of the time limits and on the terms defined by Decree in Conseil d'Etat.

Section IV : Mutual insurance companies

Article L322-26-1

(Act n°. 85-703 of 12 July 1985, Article 15, Official Journal of 13 July 1985)

(inserted by Act n°. 89-1014 of 31 December 1989, Article 26, Official Journal of 3 January 1990 in force on 1 July 1990)

Mutual insurance companies are established to carry out a non commercial object. They insure their members' risks. In consideration of the payment of a fixed or variable contribution, they guarantee members that they will settle their contracted undertakings in full. However, mutual insurance companies underwriting life insurance or capitalisation may not receive variable contributions.

Said companies operate without a share capital on terms defined by decree in Conseil d'Etat for all of the categories referred to in Article L322-26-4.

Article L322-26-2

(Act n°. 85-703 of 12 July 1985, Article 16, Official Journal of 13 July 1985)

(Act n°. 89-1014 of 31 December 1989, Article 27, Official Journal of 3 January 1990 in force on 1 July 1990)

In addition to the directors, the number and method of appointment of which are provided for in this Code, the board of directors shall include one or two directors appointed by the wage-earning staff. The number of said directors, which is set by the statutes, may not exceed four or exceed one third of the number of the other directors. When the number of directors appointed by the wage-earning staff is equal to or exceeds two, the executive and like staff shall have one less seat.

For the application of this Article, the procedures for the nomination of directors appointed by the wage-earning staff are outlined in accordance with Articles 97-2, 97-3, first paragraph and 97-4 to 97-8 of Act n°. 66-537 of 24 July 1966 relating to business corporations.

The statutes may not make the appointment to the board of directors of members who are up to date with their contributions subject to any condition whatsoever.

Any appointment made in violation of this Article shall be null and void. Said nullity shall not entail the nullity of the deliberations that the irregularly appointed director took part in.

Article L322-26-2-1

(inserted by Act n°. 89-1014 of 31 December 1989, Article 26, Article 28, Official Journal of 3 January 1990 in force on 1 July 1990)

Statutes that make attendance of members who are up to date with their contributions at the general meeting or make the appointment of members to the general meeting subject to the amount of the contribution shall be null and void with effect on 1 July 1991.

Article L322-26-2-2

(inserted by Act n°. 96-314 of 12 April 1996, Article 8, II, Official Journal of 13 April 1996)

The provisions of Articles 244, 246 second paragraph and 247 of Act n°. 66-537 of 24 July 1966 relating to business corporations shall apply to mutual insurance companies.

Article L322-26-3

(inserted by Act n°. 89-1014 of 31 December 1989, Article 26, Article 28, Official Journal of 3 January 1990 in force on 1 July 1990)

Unions may be set up between mutual insurance companies underwriting insurance of the same nature for the sole purpose of reinsuring in full contracts underwritten by said mutual insurance companies and to give them their joint and several guarantee.

Said unions may be established only between mutual insurance companies that undertake to assign their risks in full to the union under a reinsurance treaty.

The union shall be a separate legal entity from its member companies.

Unions of mutual insurance companies shall operate in accordance with the rules applicable to mutual insurance companies, subject to the adaptations provided for by the decree in Conseil d'Etat.

For application of Book III of this code, transactions in respect of which the unions act as guarantors with joint and several liability shall be deemed to be direct insurance transactions.

Article L322-26-4

(inserted by Act n°. 89-1014 of 31 December 1989, Article 26, Article 28, Official Journal of 3 January 1990 in force on 1 July 1990)

Mutual insurance companies, tontine-like companies and agricultural mutual insurance and reinsurance companies governed by Article 1235 of the Rural Code shall constitute special forms of mutual insurance companies.

A decree in Conseil d'Etat shall define the special terms in which the provisions of this section shall apply to them.

Article L322-26-5

(transferred by Act n°. 89-1014 of 31 December 1989, Article 26, Article 54, Official Journal of 3 January 1990 in force on 1 July 1990)

In the event of non reasoned dissolution, by a withdrawal of a mutual insurance company's authorisation, the net assets exceeding liabilities shall vest, by decision of the general meeting, either to the other mutual insurance companies or to associations recognised as being of public

benefit.

Article L322-26-6

(transferred by Act n°. 94-5 of 4 January 1994, Article 31, Article 4, VI, Official Journal of 5 January 1994 in force on 1 July 1994)

Mutual companies and their unions may accept risks in reinsurance only on the terms defined by the decree provided for in Article L310-7.

Section VI: Agricultural mutual insurance and reinsurance companies or funds

Paragraph I : General provisions

Article L322-27

(Act n°. 93-1444 of 31 December 1993, Article 21, Official Journal of 5 January 1994)

Article 1235 of the Rural Code shall govern the foundation of insurance or reinsurance companies or firms.

A decree in Conseil d'Etat determines the provisions for application of this Article and defines the provisions applicable to the transactions referred to in Article L310-1 that they may be authorised to underwrite. Membership of the company or fund may be limited to persons who carry on agricultural or related occupations or embrace other categories of individuals or legal entities provided for under their statutes.

Chapter III: Rehabilitation and safeguard proceedings

Section I : General rules

Article L323-1

If the circumstances so require, the administrative authority may order a firm to suspend payment of surrender value or the payment of advances on contracts.

Article L323-1-1

(Act n°. 94-5 of 4 January 1994, Article 23, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 99-532 of 25 June 1999, Article 91, paragraph 6, Official Journal of 29 June 1999)

When the financial situation of a firm subject to State control pursuant to Article L310-1 is such that the interests of the insured and beneficiaries of contracts are compromised or risk being compromised, the insurance regulatory commission shall take the necessary emergency measures

to safeguard the interests of the insured.

It may place the firm under special supervision for this purpose.

It may also restrict or prohibit the free disposal of all or part of the firm's assets, temporarily limit or suspend certain transactions or appoint a provisional director to whom the powers required to manage and run the company shall be transferred. Said appointment shall be made either at the request of corporate officers when they consider that they are no longer able to carry out their duties under normal conditions or on the commission's initiative when the establishment can no longer be managed under normal conditions or when the penalty provided for in paragraph 4 of Article L310-18 has been imposed.

The commission shall withdraw or confirm the measures referred to in the third paragraph, after proceedings in which the parties are heard, within the time limit allowed by decree in Conseil d'Etat.

Article L323-1-2

(inserted by Act n°. 2001-420 of 15 May 2001, Article 136, VII, Official Journal of 16 May 2001)

When the financial situation of a firm subject to State control pursuant to Article L310-1-1 is such that its solvency is compromised or risk being compromised, the insurance regulatory commission may place the firm under special supervision for this purpose.

It may also restrict or prohibit the free disposal of all or part of the firm's assets, temporarily limit or suspend certain transactions or appoint a provisional director to whom the powers required to manage and run the company shall be transferred. Said appointment shall be made either at the request of corporate officers when they consider that they are no longer able to carry out their duties under normal conditions or on the commission's initiative when the establishment can no longer be managed under normal conditions or when the penalty provided for in paragraph 4 of Article L310-18-2 has been imposed.

A decree in Conseil d'Etat shall define the provisions for application of this Article. In particular, it shall specify the time limit within which the commission, after a due hearing of the parties, shall withdraw or confirm the measures referred to in the previous paragraph.

Article L323-2

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of section I of chapter III of title II of Book III, as this Code was drafted prior to Act n°. 91-716 of 26 July 1991 outlining various economic and financial provisions, shall apply in French overseas territories.

Chapter IV: Portfolio transfer

Section I : General rules

Article L324-1

(Act n°. 89-1014 of 31 December 1989, Article 25, Article 57, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 24, Official Journal of 5 January 1994 in force on 1 July 1994)

French insurance firms and their branches referred to in paragraph 1 of Article L310-2 as well as French branches of the insurance firms referred to in paragraph 3 and 4 of the same Article may be authorised, in accordance with the terms defined in this Article, to transfer all or part of their portfolio of contracts covering risks or undertakings located on the territory of a member State of the European Communities with its rights and obligations to one or more French insurance firms or their branches referred to in paragraph 1 of Article L310-2, to one or more firms whose State of origin is member of the European Communities or their branches established on the territory in the European Communities or to one or more insurance firms established in the State of the risk or undertaking and authorised in said State. This Article shall not apply to the transfers of portfolios of contracts underwritten in freedom of services by firms authorised in accordance with the provisions of Article L321-7.

Creditors shall be informed of the transfer request by notice published in the Official Journal. The notice shall allow them a two month period to make their comments. The Minister in charge of the Economy and Finance shall approve the transfer by order if he considers that the transfer shall not harm the interests of creditors and insured.

The Minister in charge of the Economy and Finance shall approve the transfer only if the regulatory authorities of the State where the assignee firm is established certifies that the latter, considering the transfer, has the required solvency margin. However, when the State of origin of the assignee firm is a party to the European Economic Space agreement, the certificate referred to in this paragraph shall be issued by the regulatory authority of said State.

When the assignor is a branch located in a member State of the European Communities other than France, the Minister in charge of the Economy and Finance shall first obtain the consent of the regulatory authority of the State when the branch is located.

When the transferred risks or undertakings are located in a member State of the European Communities other than France, the Minister in charge of the Economy and Finance shall first obtain the consent of the regulatory authorities of the State of the risk or undertaking.

For transfers concerning life insurance or capitalisation firms, said approval shall in addition be based on information on actual inspection data provided for in Article L344-1.

The approval shall render the transfer binding on the insured, policyholders and beneficiaries of the contract as well as on creditors and shall preclude the right to make a higher bid provided for under Article 5 of the Act of 17 March 1909 relating to the sale and pledging of businesses. The transfer shall be enforceable from the date of publication in the Official Journal of the order referred to in the second paragraph of this Article. The insured shall be entitled to terminate the contract within one month following the date of said publication.

Article L324-1-1

(inserted by Act n°. 94-5 of 4 January 1994, Article 25, I, Official Journal of 5 January 1994 in force on 1 July 1994)

For the application of the provisions of Article L324-1, mutual insurance companies governed by the French Mutual Insurance Code and provident institutions referred to in Article L732-1 of the French Social Security Code and Article 1050 of the Rural Code shall be treated as insurance firms authorised in accordance with the provisions of Article L321-1.

Article L324-2

When the merger or demerger transactions referred to in Article 371 of Act n°. 66-537 of 24 July 1966 relating to business corporations entail transfers of portfolios of contracts underwritten in accordance with the terms provided for in Article L324-1, the provisions of Articles 313, paragraph 3, 321-1, 380, 381 paragraphs 2 et seq., 381 a, 384 and 386 paragraph 2 of said Act shall not apply thereto.

Article L324-3

(Act n°. 89-1014 of 31 December 1989, Article 25, Official Journal of 3 January 1990 in force on 1 July 1990)

When merger or demerger transactions do not entail transfers of portfolios of contracts underwritten in accordance with the terms of Article L324-1, the firms governed by this Book shall be bound to submit a declaration that includes all relevant documents explaining the aims together with terms and conditions of the planned transaction to the Minister in charge of the Economy and Finance one month prior to the final completion thereof.

The Minister may object to the transaction within said time limit if he considers that the transaction does not respect the interests of the insured or creditors or that the consequence thereof is to decrease the realisation value, determined in accordance with the provisions of Article L344-1, of investments corresponding to the undertakings made to the insured. He may also request any further documents needed to assess the transaction. In the later case, the one month time limit that the Minister is allowed to object to the pursuit of the transaction shall begin from the date of submission of the requested documents and the transaction may not be finally completed before the end of said time limit.

Firms established in the form of public limited companies shall also be governed by all of the provisions of the Act of 24 July 1966 in respect of merger or demerger transactions that do not entail transfers of portfolios of contracts.

Article L324-4

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force

on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, V, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of section I of chapter IV of title II of Book III, as this Code was drafted prior to Act n°. 89-1014 of 31 December 1989 outlining adaptations of the Insurance Code to the opening of the European Market, shall apply in French overseas territories.

Section II: Rules specific to firms underwriting compulsory motor vehicle insurance Automatic Transfer

Article L324-5

(Act n°. 89-1014 of 31 December 1989, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(inserted by Act n°. 99-532 of 25 June 1999, Article 45, Official Journal of 29 June 1999)

When a firm is concerned by a procedure of ex officio transfer of portfolio, the insurance regulatory commission may, if it considers that the conduct of individuals or legal entities, other than the agents and employees of insurance firms, through whose intermediary contracts covering the risks referred to in Article L423-1 were presented or underwritten contributed to the difficulties of said firm, decide at the end of a cross examination procedure that the aforementioned persons must all or part of the commissions or remunerations of any nature, whether direct or indirect, collected at the time of the presentation or underwriting of said contracts during the eighteen month period prior to the month during which the procedure to transfer the portfolio was launched, pay back to the assignee of the portfolio or, failing the later, to the guarantee fund.

A decree in Conseil d'Etat defines the provisions for application of this Article.

Section III : Rules applicable to accounting allocation of assets transferred with a portfolio of contracts

Article L324-7

(Act n°. 89-1014 of 31 December 1989, Article 25, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 4, I, Official Journal of 5 January 1994 in force on 1 July 1994)

The assets transferred with a portfolio of contracts by a life insurance or capitalisation firm shall be posted to an accounting section separate from the balance sheet of the assignee firm of the contracts.

To calculate the profit sharing related to said assets provided for in Article L331-13,

account shall not be taken of the respective extent of the equity capital and undertakings made to the insured posted on the firm's balance sheet.

Chapter V: Withdrawal of the licence

Section I : General rules

Article L325-1

(Act n°. 89-1014 of 31 December 1989, Article 23, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 25, II, Official Journal of 5 January 1994 in force on 1 July 1994)

Without prejudice to the provisions of Article L310-18, the Minister in charge of the Economy and Finance may withdraw the licence provided for in Articles L321-1, L321-7 and L321-9 after obtaining the consent of the commission from the insurance firms referred to in Article L411-4 in the event of prolonged lack of activity, disruption of the equilibrium between the financial resources of the firm and its activity or, if so required in the public interest, in the event of substantial changes in the structure of the share capital or management bodies.

Article L325-1-1

(inserted by Act n°. 2001-420 of 15 May 2001, Article 136, VIII, Official Journal of 16 May 2001)

Without prejudice to the provisions of Article L310-8-2, the Minister in charge of the Economy and Finance may also withdraw the permission to underwrite reinsurance in the event of prolonged lack of activity, disruption of the equilibrium between the financial resources of the firm and its activity or, if so required in the public interest, in the event of substantial changes in the structure of the share capital or management bodies.

Chapter VI: Liquidation

Section I : General rules

Article L326-2

(Act n°. 89-1014 of 31 December 1989, Article 33, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 4, II, Official Journal of 5 January 1994 in force on 1 July 1994)

(Order n°. 2001-350 of 19 April 2001, Article 6, XXI, Official Journal of 22 April 2001)

The decision by the Minister in charge of the Economy and Finance or the insurance regulatory commission concerning total withdrawal of licence shall entail ipso jure, as from the date of the publication of said decision if it concerns a French firm, the dissolution of the legal entity or, if it concerns a foreign firm, the liquidation of the assets and liabilities of the special balance sheet in respect its transactions in France.

In both cases, the liquidation shall be opened upon application by the insurance regulatory commission. It shall be governed by chapter II of title II of Book VI of the Commercial Code, subject to the provisions of this chapter.

The insurance regulatory commission shall appoint a liquidator with responsibility for checking the insurance's receivables as well as the statement of its assets directly related to the liabilities such as receivables with regard to the insured, assignors, reinsurers and coinsurers.

The court with jurisdiction, upon ruling on the opening judgement of the liquidation proceedings, shall appoint one or more court officers at the same time as it appoints the liquidator. Said court officers need not necessarily be chosen from the list of court officers with responsibility for the liquidation of firms. Said liquidator shall be responsible for drawing up a statement of other assets and of liquidation transactions.

At the same time, the court shall appoint an official receiver with responsibility for supervising the liquidation transactions. One or more auditors appointed by the insurance regulatory commission shall assist said official receiver.

Article L326-3

(order n°. 2001-350 of 19 April 2001, Article 6, XXII, Official Journal of 22 April 2001)

The official receiver may at all times request auditors to perform audits on records and on the spot.

Article L326-4

(Act n°. 89-1014 of 31 December 1989, Article 33, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 4, III, Official Journal of 5 January 1994 in force on 1 July 1994)

(Order n°. 2001-350 of 19 April 2001, Article 6, XXIII, Official Journal of 22 April 2001)

In the event of the opening of the liquidation proceedings of an insurance firm, the insured, policyholders, members and beneficiaries of insurance contracts and of the guarantee fund referred to in Article L423-1 shall, without prejudice to Article L113-2 or contractual obligations, be exempted from the declaration provided for in Article L621-43 of the Commercial Code. A decree in Conseil d'Etat defines the terms of application of this Article.

Article L326-9

(Act n°. 99-532 of 25 June 1999, Article 91, paragraph 7, Official Journal of 29 June 1999)

(Order n°. 2001-350 of 19 April 2001, Article 6, XXIX, Official Journal of 22 April 2001)

Where applicable, the liquidator shall return first and foremost the premiums paid by the persons who exercised their right of waiver pursuant to Article L132-5-1.

Article L326-12

(Act n°. 89-1014 of 31 December 1989, Article 33, Article 36, III, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 8, III, Official Journal of 5 January 1994 in force on 1 July 1994)

In the event of the withdrawal of a licence granted to a firm referred to in paragraphs 2 and 3 of Article L310-1, all of the contracts that it underwrote shall lapse on the fortieth day at noon, as from publication in the Official Journal of the decision concerning the withdrawal by the Minister in charge of the Economy and Finance or the insurance regulatory commission. Premiums or contributions due prior to the date of the decision concerning the withdrawal by the Minister in charge of the Economy and Finance or the insurance regulatory commission and which have not been paid on said date shall be owed in full to the firm, but the firm shall be definitively entitled thereto only in proportion to the period covered up to the date of the termination. Premiums or contributions falling due between the date of the decision concerning the withdrawal by the Minister in charge of the Economy and Finance or the insurance regulatory commission and the ipso jure date of termination of contracts shall be owed only in proportion to the period covered.

However, in respect of marine insurance contracts, a decree defines the terms on which the provisions provided for in the previous paragraph may be departed from.

Article L326-13

(Act n°. 89-1014 of 31 December 1989, Article 33, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 8, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 99-532 of 25 June 1999, Article 91, paragraph 8, Official Journal of 29 June 1999)

After publication of the decision concerning withdrawal of the licence granted to a firm referred to in paragraph 1 and the last paragraph of Article L310-1 in the Official Journal by the Minister for Economy or the insurance regulatory commission, the standard and special terms shall govern the contracts underwritten by the firm as long as the decision of the insurance regulatory commission provided for in the following paragraph has not been published in the Official Journal, but the liquidator may, with the approval of the official receiver, defer payment of all sums owed under contracts. The premiums collected by the liquidator shall be paid to a special account that shall be separately liquidated.

The insurance regulatory commission, at the liquidator's request and based on the report

by the official receiver, may set the date on which contracts shall lapse, authorise the transfer of all or part thereof to one or more firms, extend the expiry date thereof, decide to reduce the sums payable on life insurance or death benefit insurance as well as the profits declared and surrender values so as to bring the value of the firm's undertakings to the amount coverable according to the statement of the liquidation.

The payment of scheduled payments shall be suspended ten days after appointment of the liquidator and until publication of the decision by insurance regulatory commission setting the date on which contracts shall lapse. In the event of transfer of the portfolio, the suspended payments shall be made to the assignee firm less the rate of reduction defined by the insurance regulatory commission.

Article L326-14

(Act n°. 89-1014 of 31 December 1989, Article 33, Official Journal of 3 January 1990 in force on 1 July 1990)

The court, upon application by the insurance regulatory commission, may declare the nullity of one or more transactions carried out by the corporate officers of a firm in respect of which a liquidator was appointed following the withdrawal of licence, with the onus of the insurance regulatory commission to provide evidence that the persons who contracted with the firm knew that the assets were inadequate to guarantee the preferential debt of the insured and that said guarantee would be decreased as a consequence of the transaction at issue.

Article L326-15

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, VI, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of section I of chapter VI of title II of Book III, as this Code was drafted prior to Act n°. 91-716 of 26 July 1991 outlining various economic and financial provisions, shall apply in French overseas territories.

Section II : Rules specific to firms underwriting compulsory motor vehicle insurance

Article L326-17

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

In the event of the withdrawal of licence in France of a firm that underwrites motor vehicle insurance transactions, the guarantee fund established under Article L421-1 shall settle the losses referred to in Article L211-1 on behalf of the firm in liquidation.

Article L326-18

When a firm's licence has been withdrawn in accordance with the terms of Article L326-17, individuals or legal entities carrying on an insurance brokerage business through whose intermediary the contracts covering the risks referred to in Article L211-1 were underwritten with said firm must pay back to the liquidation account one quarter of the amount of commissions collected, in any respect whatsoever at the time of said contract, since 1 January of the year prior to that during which said licence was withdrawn.

The same provision shall apply to non wage earning representatives of the same firm who were not obligated to exclusively contribute contracts obtained to the firm.

Article L326-19

(Act n°. 89-1014 of 31 December 1989, Article 48, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, VII, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of Articles L326-17 and L326-18, as this Code was drafted prior to the aforementioned Act n°. 91-716 of 26 July 1991, shall apply in French overseas territories.

Chapter VII : Liens

Article L327-1

Movable assets allocated to represent mathematical reserves in respect of insurance transactions against work-related accidents shall be allocated first and foremost to pay the relevant annuities. Said lien shall take precedence over the general lien established in the first paragraph of Article L327-2.

Article L327-2

(Act n°. 94-5 of 4 January 1994, Article 26, I, II, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 99-532 of 25 June 1999, Article 91, paragraph 9, Official Journal of 29 June 1999)

Movable assets of French firms subject to State control pursuant to Article L310-1 shall be encumbered by a general lien to guarantee settlement of their undertakings with regard to the insured and beneficiaries of contracts and repayment first and foremost of premiums paid by the persons who exercised their right of waiver pursuant to Article L132-5-1. Said lien shall rank after paragraph 6 of Article 2101 of the Civil Code.

The same shall apply for immovable assets. Said lien shall rank after paragraph 2 of Article 2104 of the Civil Code.

In respect of the foreign firms referred to in paragraphs 3 and 4 of Article L310-2, the

movable and immovable assets representing the technical reserves and surety bonds shall be encumbered by a special lien to guarantee settlement of their direct insurance transactions for contracts underwritten or performed in France.

Article L327-3

(Act n°. 94-5 of 4 January 1994, Article 26, III, Official Journal of 5 January 1994 in force on 1 July 1994)

When the assets of an insurance firm are inadequate to represent its regulated undertakings or when the financial situation of said firm is such that the interests of the insured and beneficiaries of contracts risk being compromised within a short period, the real property forming part of the firm's assets may be encumbered by a mortgage registered upon application by the insurance regulatory commission. When a firm's licence has been withdrawn, said mortgage shall be registered *ipso jure* on the date of such withdrawal.

Article L327-4

(Act n°. 94-5 of 4 January 1994, Article 4, IV, Article 8, V, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 99-532 of 25 June 1999, Article 91, paragraph 10, Official Journal of 29 June 1999)

In respect of firm underwriting the transactions referred to in paragraph 1 and the last paragraph of Article L310-1, the receivable guaranteed by the lien or statutory lien shall be drawn up at the amount of premiums to be repaid first and foremost in the event of waiver of the contract and of the mathematical reserve decreased, where applicable, by advances on policies, including interest and increased, where applicable, by the amount of the individual profit sharing account opened in the insured's name when said profits are not payable immediately after the liquidation of the year in which they were generated.

In respect of other insurance, the guaranteed receivable shall be drawn up, concerning direct insurance, at the amount of indemnities owed following losses and at the amount of premium instalment paid in advance or premium reserves for the period during which the risk has not been incurred; compensation receivables shall be paid first and foremost. In respect of compensations owed in the form of annuities, they shall be drawn up at the amount of the mathematical reserve.

In respect of all types of reinsurance transactions, they shall be drawn up at the amount of the relevant reserves as defined by decree in Conseil d'Etat provided for in Article L310-7.

Article L327-5

When a French firm creates guarantees in a foreign country in favour of creditors holding their rights under insurance contracts performed in said country, the lien established pursuant to the first paragraph of Article L327-2 may not place such creditors in a more favourable situation than that of creditors holding their rights under contracts performed in France.

Article L327-6

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, VIII, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of chapter VII of title II of Book III, as this Code was drafted prior to Act n°. 91-716 of 26 July 1991 outlining various economic and financial provisions, shall apply in French overseas territories.

Chapter VIII : Penalties

Article L328-1

(Act n°. 92-1336 of 16 December 1992, Article 322, Official Journal of 23 December 1992 in force on 1 March 1994)

(Act n°. 94-5 of 4 January 1994, Article 27, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Disregard of the disabilities provided for in Article L322-2 shall be punished by a three year prison sentence and a fine of FRF 500,000.

Article L328-2

(Act n°. 92-1336 of 16 December 1992, Article 322, Official Journal of 23 December 1992 in force on 1 March 1994)

(Act n°. 94-5 of 4 January 1994, Article 27, I, Official Journal of 5 January 1994 in force on 1 July 1994)

(Act n°. 94-679 of 8 August 1994, Article 3, III, Official Journal of 10 August 1994 in force on 1 January 1995)

Any one convicted pursuant to Article L328-1 may not be employed in any respect whatsoever in the firm where he discharged management duties or where he was a member of the board of directors or supervisory board or where he had signatory powers or in the subsidiaries of said firm subject to State control pursuant to Article L310-1.

Any one who disregards the prohibition provided for in the previous paragraph and his employer shall be punished by the penalties provided for in Article L328-1.

Article L328-3

(Act n°. 94-5 of 4 January 1994, Article 27, I, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of Articles 433, paragraph 2, 3 and 4 of Article 437, Articles 439, 455 and 458 of Act n°. 66-537 of 24 July 1966 relating to business corporations shall apply to insurance firms, even when such provisions do not govern them ipso jure.

Article L328-4

(Act n°. 94-5 of 4 January 1994, Article 27, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Articles 197 to 200, 207 and 211 to 214 of Act n°. 85-98 of 25 January 1985 relating to the judicial rehabilitation and liquidation of firms shall apply to any one who directly or indirectly empowered to commit the insurance firm, including, inter alia, the general agent of a foreign insurance firm established in France, even when such Articles do not govern him ipso jure.

Article L328-5

(Act n°. 85-98 of 25 January 1985, Article 221, VII, Official Journal of 26 January 1985 in force on 1 January 1986)

(Act n°. 94-5 of 4 January 1994, Article 27, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any violation of the provisions of Articles L322-1, L322-2-2, L322-4 and L323-1 shall be punished by the penalty provided for in Article L310-26.

Article L328-13

(Act n°. 85-98 of 25 January 1985, Article 221, VIII, Official Journal of 26 January 1985 in force on 1 January 1986)

In the event of liquidation carried out in accordance with the terms of Article L326-2, the following provisions shall apply:

1 If the financial situation of the firm dissolved following the total withdrawal of licence shows that the assets are inadequate in relation to the liabilities that must be paid during the liquidation, the court, in the event of mismanagement that contributed to said asset shortfall, may decide at the liquidator's request or on its own motion that the firm's debts be borne in whole or in part, with or without joint and several liability, by all of the de jure or de facto corporate officers, whether remunerated or not, or by some of them.

The legal action shall be barred three years as from the date on which the liquidator's fourth half-yearly report is filed at the clerk's office.

2 Corporate officers guilty of actions referred to in Articles 188 and 189 of the aforementioned Act n°. 85-98 of 25 July 1985 may be punished by the penalties provided for in title VI of said Act and disqualification and prohibition may be withdrawn in accordance with the

terms of Article 195 of the same Act.

Article L328-16

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 94-5 of 4 January 1994, Article 42, IX, Official Journal of 5 January 1994 in force on 1 July 1994)

Chapter VIII of title II of Book III, as this Code was drafted prior to Act n°. 91-716 of 26 July 1991 outlining various economic and financial provisions, shall apply in French overseas territories.

Title III

Financial scheme

Chapter I: Regulated agreements

Section II : Technical reserves of life insurance, wedding-birth and capitalisation insurance transactions

Article L331-1

(inserted by Decree n°. 85-863 of 2 August 1985, Article 3, Official Journal of 15 August 1985)

To determine the undertaking of the insured or the policyholder, mathematical reserves built up by life insurance and capitalisation firms shall be calculated by factoring in premium instalments to be paid by the concerned party which represent the acquisition costs of the contract when the firm posted said costs as deductible expenses before the end of the year on the closing of which the reserve is capitalized.

As required, a decree defines the terms of application of this Article.

Article L331-2

(transferred by Act n°. 94-5 of 4 January 1994, Article 5, I, Official Journal of 5 January 1994 in force on 1 July 1994)

The maximum compensation that the insurer may retain in the event of surrender is set by decree.

Article L331-3

(transferred by Act n°. 94-5 of 4 January 1994, Article 5, I, Official Journal of 4 January 1994 in force on 1 July 1994)

Life insurance or capitalisation firms must share the technical and financial profits that they make with the insured in accordance with the terms imposed by order of the Minister for Economy and Finance.

Article L331-4

(transferred by Act n°. 94-5 of 4 January 1994, Article 3, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

The administrative authority may define the actuarial calculation rules applicable to life insurance or capitalisation contracts.

Chapter IV : Solvency of firms

Article L334-1

(Act n°. 94-679 of 8 August 1994, Article 4, I, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 98-261 of 6 April 1998, Article 8, I, Official Journal of 7 April 1998)

(Act n°. 2001-420 of 15 May 2001, Article 136, IX, Official Journal of 16 May 2001)

(Order n°. 2001-766 of 29 August 2001, Article 6, Official Journal of 31 August 2001)

The firms referred to in Article L310-1 must at all times respect the solvency margin in accordance with the terms defined by decree in Conseil d'Etat.

Article L334-2

(inserted by Order n°. 2001-766 of 29 August 2001, Article 7, Official Journal of 31 August 2001)

For application of the law and regulations applicable to the solvency of firms:

1 The expression “parent firm” means a firm that exclusively controls a firm within the meaning of paragraph II of Article L233-16 of the Commercial Code or that exercises a dominant influence over a firm by reason of the existence of substantial long term solidarity links as a result of financial undertakings, corporate directors or common services. Said second firm is referred to as the “subsidiary firm”. Any subsidiary firm of a subsidiary firm shall be deemed to be a subsidiary of the parent firm.

2 The expression “holding” means the act of directly or indirectly owning 20% or more of the voting rights or capital of a firm.

3 The expression “holding firm” means a parent firm or a firm that owns a holding in a firm.

4 The expression “subsidiary firm” means any affiliated or holding firm or a firm affiliated to holding firms of the insurance firm.

5 The expression “related firm” means any affiliated or holding firm or a firm affiliated to holding firm of the insurance firm.

6 The expression “insurance group” means a group formed of:

a) at least two firms subject to State control pursuant to Article L310-1 and having its registered office in France,

b) or, on the other hand, at last one firm subject to State control pursuant to Article L310-1 and having its registered office in France and, on the other hand, a group insurance company, a firm subject to State control pursuant to Article L310-1-1, a provident institution or a union governed by title III of chapter IX of the French Social Security Code, a mutual or union governed by chapter II of the French Mutual Insurance Code or an insurance or reinsurance firm whose registered office is located outside France.

The entities referred to in a and b must be connected by one of the links defined in paragraph 1 to 5 above.

Article L334-3

(inserted by Order n°. 2001-766 of 29 August 2001, Article 8, Official Journal of 31 August 2001)

The financial situation of firms subject to State control pursuant to Article L310-1, having their registered office in France and belonging to an insurance group within the meaning of paragraph 6 of Article L334-2 shall be the subject of additional supervision.

Firms subject to State control pursuant to Article L310-1, having their registered office in France and affiliated to a mixed group insurance company within the meaning of paragraph 6 of Article L334-2 shall also be the subject of additional supervision in accordance with the terms of this Article and Articles L310-12 to L310-15.

The additional supervision shall take account of firms related to the aforementioned firms. The insurance regulatory commission may decide not to subject a related firm to additional supervision if it considers that said firm’s interest is negligible or contrary to the objectives of said supervision.

A decree in Conseil d’Etat defines the terms of application of this Article.

Title IV

Accounting and statistics provisions

Chapter I : Main principles

Article L341-1

(Act n°. 89-1014 of 31 December 1989, Article 46, Official Journal of 3 January 1990 in force on 1 July 1990)

(inserted by Act n°. 94-5 of 4 January 1994, Article 28, Official Journal of 5 January 1994 in force on 1 July 1994)

A decree in Conseil d'Etat defines the terms in which the provisions of this chapter shall apply to firms underwriting the transactions referred to in paragraphs 1 and 2 of Article L310-1 of the Insurance Code in order to provide separate management to protect the interests of the insured of each of said two categories of transactions.

Chapter II : Accounting of insurance and capitalisation firms

Article L342-1

(inserted by Act n°. 94-679 of 8 August 1994, Article 4, II, Official Journal of 10 August 1994 in force on 1 January 1995)

Firms subject to State control pursuant to Article L310-1-1 shall assess their assets and undertakings, keep their accounts, present and publish their accounts in accordance with the same terms as firms subject to State control pursuant to Article L310-1 and having their registered office in France, subject to officially determined adaptations.

Chapter IV : Insurance categories and statements to be produced

Article L344-1

(inserted by Act n°. 89-1014 of 31 December 1989, Article 25, Official Journal of 3 January 1990 in force on 1 July 1990)

Firms underwriting life insurance or capitalisation transactions shall draw up at each year end a statement which shall be attached to their accounts. Said statement shall record the book value and the realisation value of all investments listed as assets.

Moreover, said statement shall show the share of investments that corresponds to undertakings made to the insured and beneficiaries of the contracts, such as such share would be recorded in the event of the transfer of the portfolio of contracts.

A decree in Conseil d'Etat defines the rules for application of the two previous paragraphs.

Chapter V : Consolidated accounts

Article L345-1-1

(Act n°. 99-532 of 25 June 1999, Article 53, IV, Official Journal of 29 June 1999)

(Order n°. 2001-766 of 29 August 2001, Article 10, II, Official Journal of 31 August 2001)

The headquarters of group insurance companies defined in Article L322-1-2 must be located in France.

Article L345-2

(Act n°. 94-679 of 8 August 1994, Article 4, IV, Official Journal of 10 August 1994 in force on 1 January 1995)

(Act n°. 98-261 of 6 April 1998, Article 8, II, III, Official Journal of 7 April 1998)

(Act n°. 99-532 of 25 June 1999, Article 52, II, Official Journal of 29 June 1999)

(Order n°. 2001-350 of 19 April 2001, Article 6, XXIV, Official Journal of 22 April 2001)

(Order n°. 2001-766 of 29 August 2001, Article 9, Official Journal of 31 August 2001)

Firms subject to State control pursuant to Article L310-1 and having their registered office in France, firms referred to in Article L310-1 and group insurance companies defined in Article L322-1-2 must draw up and publish consolidated accounts in accordance with the terms defined by rule of the accounting regulation committee. Firms included by global integration in the consolidated accounts of a firm that is itself subject to an obligation to consolidate its accounts pursuant to this paragraph shall not however be subject to said obligation.

When the insurance regulatory commission considers that the consolidated accounts of a group insurance company does not enable it to pertinently judge compliance with the additional supervision rules laid down in Article L334-3, said commission shall exempt said group insurance company from the obligation defined in previous paragraph.

When two or more firms subject to State control pursuant to Article L310-1 or Article L310-1-1, group insurance companies defined in Article L322-1-2, provident institutions or unions governed by title III of Book IX of French Social Security Code or mutuals, pension bodies or unions governed by Book II of the French Mutual Insurance Code form a group whose cohesion does not ensue from capital links, one of them shall draw up and publish combined accounts. A decree determines the institution referred to in the previous paragraph bound by said obligation. Combined accounts are formed by grouping all of the accounts of the concerned institutions drawn up, where applicable, on a consolidated basis, in accordance with the terms defined by a rule of the accounting regulatory commission.

Title V

Freedom of services and coinsurance relating to States, non members of the EU, parties to the European Economic Space agreement

Chapter I: Provisions relating to the freedom of services in assurance against damage

Section I : General provisions

Article L351-1

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, II, Official Journal of 5 January 1994 in force on 1 July 1994)

In this title:

1 the word “State” means the State party to the European Economic Space agreement non member of the European Communities,

2 the expression “freedom of services” means the rules applicable to transactions carried out within the framework of freedom of services defined in paragraph 4 of Article L310-3 when the following circumstances or any one of them occurs:

a) the transaction is carried out from a State that is not a member of the European Communities,

b) the State of origin of the firm that carries out the transaction is not a member of the European Communities,

c) the State where the risk covered or undertaking made is located is not a member of the European Communities.

Article L351-2

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 91-716 of 26 July 1991, Article 1, VII, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 92-665 of 16 July 1992, Article 32, III, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

This title shall not apply to insurance transactions related to:

- work-related accidents and occupational diseases,
- public liability of motor vehicles, apart from the carrier’s liability,

Moreover, this chapter shall not apply to risks related to building work which is covered by compulsory insurance.

Section II : Conditions of exercise

Article L351-4

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 91-716 of 26 July 1991, Article 1, VIII, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 6, I, II, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any insurance firm may cover major risks as defined in Article L111-6 in France in the framework of freedom of services, subject to the sole condition that it first informs the Minister in charge of the Economy and Finance thereof. A decree in Conseil d'Etat specifies the documents to be produced in support on said information.

Article L351-5

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

Any insurance firm may cover risks other than those referred to in Article L351-4 in France in the framework of freedom of services when such firm does not have an establishment in France that has been granted the licence provided for in Article L321-7 for the concerned branches.

However, such firm may operate in France in the framework of freedom of services only after it has been granted licence issued by the Minister in charge of the Economy and Finance in accordance with the terms of Article L321-8.

Article L351-6

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any insurance firm that covers a risk other than those referred in Article L351-4 in France in the framework of freedom of services must submit all documents that it may be requested to provide to the Minister in charge of the Economy and Finance in accordance with the same terms as for the firms licensed under Article L321-1.

Any insurance firm that covers major risks in France in the framework of freedom of services must submit the standard and special terms of insurance policies, manuals of rates, forms and other printed matter that the firm intends using to the Minister in charge of the Economy and Finance when it is requested to do so in order to check compliance with the law and regulations applicable to such risks.

Article L351-6-1

(Act n°. 91-716 of 26 July 1991, Article 1, IX, Official Journal of 27 July 1991 in force on 20 November 1992)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any firm that covers the risks of public liability ensuing from use of motor vehicles in the framework of freedom to provide service shall appoint a representative in France to handle claims by reason of said risks, apart from the carrier's public liability. A decree in Conseil d'Etat defines the assignments of the representative which preclude any insurance transaction on behalf of the firm that he represents with respect to claims handling.

Section III : Administrative penalties

Article L351-7

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

When an insurance firm that operates in France in the framework of freedom of services breaches the rules applicable to it, the insurance regulatory commission shall order the firm in question to comply with the rules.

If the firm disregards the order given pursuant to the previous paragraph, the insurance regulatory commission shall inform the regulatory authorities of the member State of the establishment of said firm and, where applicable, the State of its registered office thereof and request them to take all appropriate measures to ensure that the firm complies with the rules.

Article L351-8

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

If the firm persists in violating the rules applicable to it in France, the insurance regulatory commission may take appropriate measures to prevent further violation and if, the circumstances so require, prohibit the firm from continuing to conclude insurance contracts in the

framework of freedom of services in France and impose, in accordance with the terms of Article L310-18, the penalties listed in said same Article, apart from those provided for in the fifth (4) and seventh (6) paragraphs of said Article. The insurance regulatory commission shall publish the measures that it ordered in newspapers and publications of its choice and display them at the places and for the time that it specifies at the firm's expense.

Article L351-9

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, V, Official Journal of 5 January 1994 in force on 1 July 1994)

When the proper regulatory authority informs the insurance regulatory commission that a firm operating in France in the framework of freedom of services is concerned by a recovery plan or a short term financing plan or a measure that restricts or prohibits the free disposal of its assets, it shall take restriction or prohibition measures in respect of the assets of said firm located in France in order to safeguard the interests of the insured and beneficiaries of the contracts.

Article L351-10

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Article 32, II, III, Official Journal of 5 January 1994 in force on 1 July 1994)

When the proper regulatory authority informs the insurance regulatory commission of the withdrawal of the licence of a firm operating in France in the framework of freedom of services, the insurance regulatory commission shall take appropriate measures to prohibit it from continuing its business and to safeguard the interests of the insured and beneficiaries of the contracts.

Chapter II: Provisions relating to coinsurance

Article L352-1

(Act n°. 89-1014 of 31 December 1989, Article 1, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-665 of 16 July 1992, Article 14, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Article 31, Official Journal of 5 January 1994 in

force on 1 July 1994)

Any insurance firm whose registered office is located on the territory of a State party to the European Economic Space agreement non member of the European Communities and which complies with the law of the country where it is established shall be exempted from the obligations provided for in Articles L321-7 and L351-4 in order to participate, without being a leading underwriter, in covering a major risk as defined in Article L111-6 located in France as part of a coinsurance transactions carried out in the framework of freedom of services and at least one of whose participants is not established in the same member State as the leading underwriter.

Chapter III: Provisions relating to the freedom of services in life insurance and capitalisation

Section I : General provisions

Article L353-2

(Act n°. 92-665 of 16 July 1992, Article 15, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

This chapter shall not apply to:

1 transactions that consist of managing the investments of firms other than those referred to in Article L310-1 that provide benefits on survival to a stipulated age, death or cessation or reduction of activity,

2 transactions defined in Article 1 of chapter I of title IV of Book IV.

Section II : Conditions of exercise

Article L353-4

(Act n°. 92-665 of 16 July 1992, Article 15, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

I. - Any insurance firm may make undertakings in France within the framework of freedom of services when the policyholder took the initiative of requesting said undertakings from the insurance firm, subject to the sole condition that it first informs the Minister in charge of the Economy and Finance thereof. A decree in Conseil d'Etat specifies the documents to be submitted in support of said information.

The policyholder shall be deemed to have taken the initiative when at least one of the

following two situation arises:

1 The contract has been underwritten without the policyholder being canvassed in France on behalf of an insurance firm by an insurance intermediary or by a person authorised by the firm or without the policyholder being informed by means of a sales promotion sent to him personally. The contract has been underwritten either by both parties in the member State where the firm is established or by the firm in said member State and by the policyholder in France.

2 The policyholder contacted an insurance intermediary established in France to obtain information on the insurance contracts offered by insurance firms established in other member States or to underwrite a contract with one of said firms.

II. - Insurance firms shall benefit from the provisions of the first paragraph of this Article only if the policyholder, before underwriting the contract, has signed a statement whereby he acknowledges that he knows that the insurance firm in question is subject to the control of the State where it is established. Where applicable, it shall also sign a similar statement before taking knowledge of the information referred to in the last paragraph (2°) of I.

III - Any insurance firm, that makes undertakings in France within the framework of freedom of services and in accordance with the terms of this article, is bound to submit to the Minister in charge of Economy and Finance the standard and special terms of insurance terms of insurance policies, manuals or rates, forms and other printed materials that the firm uses, when it is requested to do so in order to check compliance with the legislative and regulatory provisions applicable to said undertakings.

Article L353-5

(Act n°. 92-665 of 16 July 1992, Article 15, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, IV, Official Journal of 5 January 1994 in force on 1 July 1994)

Any insurance firm may make undertakings in France which are not underwritten according to the terms and conditions defined in Article L353-4 in the framework of freedom of services, when it does not have an establishment in France that has been granted the licence provided for in Article L321-7 for the concerned branches.

However, such firm may operate in France within the framework of freedom of services only after it has been granted licence issued by the Minister in charge of the Economy and Finance in accordance with the terms of Article L321-8.

Article L353-6

(Act n°. 92-665 of 16 July 1992, Article 15, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Any insurance firm that makes undertakings in France in accordance with the terms of

Article L353-5 in the framework of freedom of services must submit any document that it may be requested to provide to the Minister in charge of the Economy and Finance in accordance with the same terms as for the firms authorised under Article L321-1.

Section III : Administrative penalties

Article L353-7

(Act n°. 92-665 of 16 July 1992, Article 15, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 30, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Insurance firms referred to in Articles L353-4 and L353-5 shall be subject to the administrative penalties provided for under Articles L351-7 to L351-9 as well as to disqualification from carrying on business provided for in Article L351-14.

Chapter IV : Portfolio transfers

Article L354-1

(inserted by Act n°. 94-5 of 4 January 1994, Article 30, I, Article 32, I, Official Journal of 5 January 1994 in force on 1 July 1994)

French insurance firms and their branches referred to in paragraph 1 of Article L310-2 as well as the French branches of insurance firms referred to in paragraph 3 of the same Article may be authorised, in accordance with the terms defined in the second, third, fourth and seventh paragraphs of Article L324-1, to transfer all or part of their portfolios of contracts executed in the framework of freedom of services within the meaning of Article L351-1 to one or more firms whose registered office(s) is or are located in a State party to the European Economic Space agreement or [to] their branches established in States parties to the European Economic Space agreement or to one or more insurance firms established and authorised in the State of the risk or of the undertaking party to the European Economic Space agreement. The Minister in charge of the Economy and Finance shall approve the transfer only if it has been approved by the regulatory authorities of the State where transactions are to be carried out within the framework of freedom of services.

Moreover, when the assignee firm is established in a State party to the European Economic Space agreement other than the State where transactions are to be carried out within the framework of freedom of services, the Minister in charge of the Economy and Finance shall approve the transfer only if it has been approved by the regulatory authorities of the State of establishment of the assignee firm. However, when the assignee firm is a branch established in a member State of the European Communities of which the State of origin is also a member, the approval referred to in this paragraph shall be granted by the regulatory authorities of the State of origin of the assignee firm.

Article L354-1-1

(inserted by Act n°. 94-5 of 4 January 1994, Article 30, I, Article 32, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Firms and branches referred to in the first paragraph of Article L354-1 as well as the French branches of insurance firms referred to in paragraph 4 of Article L310-2 may be authorised in accordance with the terms of Article L354-1 to transfer all or part of their portfolios of contracts covering risks or undertakings located on the territory of a State member of the European Communities to one or more assignee firms operating within the framework of freedom of services within the meaning of Article L351-1 in the State of the risk or the undertaking.

Article L354-2

(inserted by Act n°. 94-5 of 4 January 1994, Article 30, I, Article 32, I, Official Journal of 5 January 1994 in force on 1 July 1994)

The lawfully approved transfer by the proper authorities of the concerned State of all or part of a portfolio of contracts executed within the framework of freedom of services within the meaning of Article L351-1 in France by a firm established in a State party to the European Economic Space agreement other than France to an assignee established in one of the States party to the European Economic Space agreement shall be binding on insured persons, policyholders, beneficiaries of the contracts and creditors insofar as the provisions of first sentence of the second paragraph of Article L324-1 have been complied with and the Minister in charge of the Economy and Finance has not objected to the planned transfer.

The transfer shall be binding as from the date of the decision by the proper authorities of the concerned States authorising the transfer has been made public by a notice published in the Official Journal. However, the insured shall be entitled to terminate the contract within a period of one month following the date of said publication.

The provisions of the first two paragraphs of this Article shall also apply to transfers of portfolios of contracts covering risks or undertakings located in France by firms established in a member State of the European Communities, of which the State of origin is a member State of the European Communities other than France, to one or more assignee firms operating within the framework of freedom to provide services within the meaning of Article L351-1 in France.

Title VI

Freedom of establishment and freedom of services within the EU

Chapter I : Definitions

Article L361-1

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

In this title:

- a) the expression “member State” means a member State of the European Communities,
- b) the expression “Community insurance firm” means an insurance firm whose State of origin is a member State of the European Communities other than France.
- c)

Chapter II : Conditions of exercise

Article L362-1

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

Any community insurance firm may establish in France a branch that underwrites the transactions referred to in Article L310-1 in respect of which it has been approved by the regulatory authorities of its State of origin, provided that the latter have first forwarded the required information to the Minister for Economy and Finance. An order by said minister defines the provisions for application of this Article and in particular the terms in which the Minister shall inform the firm of receipt of said information and the date on which it may start its business.

Article L362-2

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

Any community insurance firm established in a member State other than France may cover risks or make undertakings in France within the framework of freedom of services from said establishment in accordance with the licences granted by the regulatory authorities of the State of origin, provided that the latter have first forwarded the required information to the Minister for Economy and Finance. An order defines the provisions for application of this Article as stated in the previous Article.

Article L362-3

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

Any community insurance firm that covers in France the risks of public liability ensuing from use of motor vehicles in the framework of freedom to provide service shall appoint a representative in France to handle claims by reason of said risks, apart from the carrier's public liability. A decree in Conseil d'Etat defines the assignments of the representative which preclude any insurance transaction on behalf of the firm that he represents with respect to claims handling.

Article L362-4

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

The provisions of titles II to V of this Book shall not apply to transactions carried out in accordance with the provisions of Articles L362-1 and L362-2.

As required, a decree in Conseil d'Etat specifies the obligations imposed on the firms referred to in Articles L362-1 and L362-2 by reasons of public interest.

Chapter III : Control and penalties

Article L363-1

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

In order to exercise control over community insurance firms and notwithstanding the provisions of Article 1 a of Act n°. 68-678 of 26 July 1968 relating to the communication of documents and economic, commercial, industrial, financial or technical information to individuals or legal entities, the regulatory authorities of the State of origin of the firms may require that community insurance firms and their branches established in France communicate all information that may be useful to exercise said control.

The regulatory authorities of the State of origin of the firms may directly or through the intermediary of persons they authorise for this purpose perform audits on the spot of branches of community insurance firms established in France, subject to the sole condition that they first inform the insurance regulatory commission thereof.

Article L363-2

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

Based on a reasoned request by the regulatory authority of the State of origin of the firms, the insurance regulatory commission shall restrict or prohibit the free disposal of all or part of those assets of community insurance firms located in France.

When the commission has been informed that the authorisation of a community insurance firm operating in France within the framework of freedom of services or freedom of establishment has been withdrawn or that it is in liquidation, it shall assist the regulatory authority of the State of origin and, upon its request, take the necessary measures to protect the interests of the insured in accordance with the terms of Article L323-1-1.

Article L363-3

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in

force on 1 July 1994)

Any community insurance firm that operates in France within the framework of freedom of establishment or freedom of services must be able at all times to communicate all documents and information proving that it complies with its obligations pursuant to this Code. It must communicate such documents and information to the insurance regulatory commission, upon its request. As required, an order specifies the provisions for application of this Article.

Article L363-4

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

When a community insurance firm breaches legislative or regulatory provisions applicable to it, the insurance regulatory commission may implement the procedure defined in Article L351-7.

If the firm persists in violating the rules applicable to it, the insurance regulatory commission may take appropriate measures, if the circumstances so require, to prevent further violations: it may impose the penalties provided for in the second, third and fourth paragraphs as well as the eighth paragraph of this Article, in accordance with the terms of the ninth, tenth and eleventh paragraphs of Article L310-18. In accordance with the same terms, it may also suspend the general agent and prohibit the firm from entering into insurance contracts in France.

In the event of emergency, the measures provided for in the previous paragraph may be taken prior to implementation of the procedure defined in Article L351-7.

As required, a decree in Conseil d'Etat specifies the terms of application of this Article.

Chapter IV : Portfolio transfers

Article L364-1

(inserted by Act n°. 94-5 of 4 January 1994, Article 33, Official Journal of 5 January 1994 in force on 1 July 1994)

The transfer of all or part of a portfolio of contracts entered into in France within the framework of freedom of establishment or freedom of services by a community insurance firm to an assignee established in a member State of the European Communities whose State of origin is also a member of the European Communities or to an assignee authorised in accordance with the provisions of Article L321-7 and L321-9 shall be binding on the insured, policyholders, beneficiaries of the contracts and creditors insofar as the provisions of the first sentence of the second paragraph of Article L324-1 have been complied with and the Minister in charge of the Economy and Finance has not objected to the planned transfer.

The transfer shall be binding as from the date of the decision by the proper authorities of the concerned States authorising the transfer has been made public by a notice published in the Official Journal. However, the insured shall be entitled to terminate the contract within a period of

one month following the date of said publication.

Book IV

Organisations and special insurance schemes

Title I

General insurance organisations

Chapter I: National Insurance board

Section I : Organisation and attributions

Article L411-1

(Act n°. 89-1014 of 31 December 1989, Article 17, Official Journal of 3 January 1990 in force on 1 May 1990)

(Order n°. 2001-350 of 19 April 2001, Article 6, XXV, Official Journal of 22 April 2001)

(Act n°. 2001-420 of 15 May 2001, Article 13, Official Journal of 16 May 2001)

A national insurance board has been established:

Said board shall be chaired by the Minister in charge of the Economy and Finance or, in his absence, by the director of insurance who shall be an ex officio member thereof.

The board shall also include:

- a deputy appointed by the French National Assembly,
- a senator appointed by the Senate,
- a member of the Conseil d'Etat having the rank of advisor appointed by the vice-president of the Conseil d'Etat,
- six representatives of the State,
- three personalities chosen by reason of their expertise, including a professor from the Law Faculty,
- twelve representatives of the insurance professions,
- five representatives of the staff of the insurance firms referred to in Article L310-1,
- eight representatives of the insured including a representative appointed by the local authorities,
- the chairman of the supervisory board of the guarantee fund established under Article L423-1 or a member of the management board that represents it.

Apart from the chairman and director of insurance, the members of the national insurance board shall be appointed for a renewable three year period.

The national insurance board shall meet in plenary session at least twice a year.

A decree in Conseil d'Etat defines the procedure for appointing the members referred to in the seventh to twelfth paragraphs above and the functioning conditions of the national insurance board.

Article L411-2

(inserted by Act n°. 89-1014 of 31 December 1989, Article 17, Official Journal of 3 January 1990 in force on 1 May 1990)

The national insurance board shall be consulted in respect of all questions relating to insurance, reinsurance, capitalisation and assistance. It may be consulted at the request of either the Minister in charge of the Economy and Finance or the majority of its members.

It is consulted by the Minister in charge of the Economy and Finance concerning any government bills before their examination by the conseil d'Etat, any draft European Communities as well as any draft decrees falling within the scope of its competence.

It may submit all proposals relating to the insurance business and law as well as prevention to the Minister for Economy and Finance.

It shall send a report related to insurance to the President of the Republic and to Parliament.

Article L411-3

(inserted by Act n°. 89-1014 of 31 December 1989, Article 17, Official Journal of 3 January 1990 in force on 1 May 1990)

A commission of insurance firms, a regulation commission and a consultative insurance commission shall be established on the national insurance board. A decree in Conseil d'Etat defines the composition and functioning conditions of said commissions, subject to the provisions of Articles L411-4 to L411-6.

Article L411-4

(Act n°. 89-1014 of 31 December 1989, Article 17, Official Journal of 3 January 1990 in force on 1 May 1990)

(Act n°. 92-665 of 16 July 1992, Article 16, II, Official Journal of 17 July 1992 in force on 20 May 1993)

(Act n°. 94-5 of 4 January 1994, Article 38, I, Official Journal of 5 January 1994 in force on 1 July 1994)

The commission of insurance firms shall be consulted prior to decisions relating to the licensing of the insurance firms provided for in Articles L321-1, L321-7, L321-8, L321-9 and L325-1.

The Minister in charge of the Economy and Finance or his representative appointed for this purpose shall chair the commission of insurance firms.

Article L411-5

(inserted by Act n°. 89-1014 of 31 December 1989, Article 17, Official Journal of 3 January 1990 in force on 1 May 1990)

The regulation commission shall issue an opinion, on behalf of the national insurance board, on draft decrees referred to the latter pursuant to Article L411-2. The Minister in charge of the Economy and Finance or his representative appointed for this purpose shall chair the regulation commission.

Article L411-6

(inserted by Act n°. 89-1014 of 31 December 1989, Article 17, Official Journal of 3 January 1990 in force on 1 May 1990)

The consultative insurance commission shall be responsible for studying problems related to relations between the firms referred to in Article L310-1 and their customers and for proposing all relevant measures in this area, in particular, by way of opinions or general recommendations.

The consultative insurance commission may act on its own motion at the request of the majority of its members. It may be consulted by the Minister in charge of the Economy and Finance and by consumer organisations authorised at the national level.

At least two thirds of the consultative insurance commission shall be comprised of representatives of the insurance professions and representatives of the insured. Based on a decision by the majority of its members, it may appoint outside members for the requirements of its work.

One of the personalities referred to in the eighth paragraph of Article L411-1 shall chair the consultative insurance commission.

Chapter II : National insurance school

Article L412-1

(Act n°. 89-1014 of 31 December 1989, Article 50, Official Journal of 3 January 1990 in force on 1 July 1990)

Expenses of any kind incurred to operate the national insurance school shall be covered by means of:

1 a contribution proportional to the amount of premiums or contributions collected by the firms subject to State control pursuant to Article L310-1; said premiums shall be calculated as stated in Article L310-9,

2 gifts, bequests, subsidies granted to the School of Art and Skills in favour of said school, in particular, by insurance firms as well as by national federations and associations grouping firms, agents and insurance brokers together.

Each year, an order of the Minister in charge of the Economy and Finance shall set the amount of the contribution owed by each insurance firm pursuant to paragraph 1 above.

Title II

Guarantee fund

Chapter I: Road and hunting accidents guarantee fund

Section I : Provisions specific to road accidents occurring in metropolitan France and in overseas départements

Article L421-1

(transferred by Decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

A guarantee fund has been established to compensate victims of personal injury as a result of an accident in which a motor vehicle as well as its trailers or semi-trailers is involved, to the exclusion of railways and tramways running on dedicated tracks, when the person liable for the loss is unknown or is not insured, apart from a legal dispensation from compulsory insurance, or when its insurer is entirely or partly insolvent. The guarantee fund shall pay the indemnities allocated to the victims or their assigns that cannot be covered in any other respect, when the accident entitles them to compensation. Payments made to victims or their assigns that cannot give rise to an action for redress against the person liable for the injury are not deemed to constitute compensation in another respect.

In accordance with the terms and within limits defined by a decree in Conseil d'Etat, the guarantee fund may also cover damage to property as a result of an accident in which a vehicle defined in the previous paragraph is involved when the person identified as being liable for the loss is not insured, apart from a legal dispensation from compulsory insurance, or, when the person liable is unknown, the driver of the damaged vehicle or any other person sustained personal injury.

In accordance with the terms provided for in the first paragraph, when the person liable for the loss is unidentified or is not insured, the guarantee fund shall also pay the compensations allocated to victims of personal injury or to their assigns, when said loss entitling them to compensation was caused accidentally by persons travelling on public roads.

The indemnities must result either from an enforceable court decision or from a settlement that has been approved by the guarantee fund.

Article L421-2

(Decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

(Act n°. 89-1014 of 31 December 1989, Article 48, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 91-716 of 26 July 1991, Article 1, X, Official Journal of 27 July 1991 in force on 20 November 1992)

The guarantee fund shall be a given legal personality. It must group together all insurance firms covering this risks of public liability ensuing from use of motor vehicles.

Article L421-3

(transferred by decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

The guarantee fund shall be subrogated in the rights of the creditor of the compensation against the person liable for the accident or his insurer. It shall also be entitled to interest calculated at the legal rate in civil matters and to costs of collection.

When the guarantee fund reaches a settlement with the victim, said settlement shall be binding on the party liable for the loss, except that the latter shall be entitled to bring a legal action to contest the amount of the sums claimed on account of said settlement. Said dispute cannot cause the amount of indemnities allocated to the victim or his assigns to be called into question.

Article L421-4

(transferred by decree n°. 88-260 of 18 March 1988, Article 8, Official Journal of 20 March 1988)

The guarantee fund shall be funded by the contributions of insurance firms, insured motorists and persons liable for motoring accidents not covered by insurance. The various contributions shall be paid and collected in accordance with the terms and subject to the penalties imposed by the decree in Conseil d'Etat provided for in Article L421-6.

Article L421-5

(transferred by decree n°. 86-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

The guarantee fund may join as a party even before criminal courts and even for the first time in appeal proceedings in order, in particular, to contest the amount of the compensation claimed in all proceedings brought between victims of accidents or their assigns, on the one hand, the persons liable for the accidents or their insurers, on the other hand. It shall then join the proceedings in a principal capacity and it may avail of all legal remedies.

Article L421-6

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

(Act n°. 89-1014 of 31 December 1989, Article 50, Official Journal of 3 January 1990 in force on 1 July 1990)

A decree in Conseil d'Etat defines the terms of application of Articles L421-1 to L421-5 and in particular the bases and legal methods of determining the indemnities that may be owed by the guarantee fund, the persons not entitled to benefit from the fund, the respective or reciprocal rights and obligations of the guarantee fund, the insurer, the person liable for the accident, the victim or his assigns, the time limit allowed to exercise said rights or performance of said

obligations, the functioning conditions of the guarantee, conditions in which the guarantee fund may take legal action, the conditions in which it may exceptionally be implicated, the measures of control that the Minister in charge of the Economy and Finance exercises over the entire management of the fund, the rates and bases of contributions provided for in Article L421-4.

Article L421-7

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)
(Act n°. 94-5 of 4 January 1994, Article 40, III, Official Journal of 5 January 1994)

When the person liable for an accident is unable to prove that he has complied with the obligation to insure established pursuant to Article L211-1, the victim and the guarantee fund shall be entitled to take advantage of the protective measures provided for in Articles 48 to 57 of the Code of Civil Procedure.

However, said provisions shall not apply when the public liability insurance concerns vehicles that are normally parked on the territory of a State referred to in Article L211-4, with the exception of France and Monaco.

Section II : Provisions specific to hunting accidents occurring in metropolitan France

Article L421-8

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)
(Act n°. 93-1444 of 31 December 1993, Article 20, II, Official Journal of 5 January 1994)

The guarantee fund established pursuant to Article L421-1 shall compensate bodily injury caused by all hunting or destruction of vermin on the parts of the territory where the insurance established pursuant to Article L223-13 of the Rural Code is compulsory even if said hunting or destruction is not covered by the obligation to insure from the moment said acts were carried out by an unidentified or uninsured person or by a person whose insurer is entirely or partly insolvent.

Expenses incurred pursuant to the previous paragraph shall be covered by contributions from insurance firms, insured hunters and persons liable for accidental hunting injuries not covered by insurance as well as by surcharge of 50 per cent of fines, including those that a pardon has substituted for a prison sentence handed down for hunting without a permit or in a place, a time or by means of prohibited devices.

A decree in Conseil d'Etat defines the terms of application of this Article.

Section V : Financial scheme of the guarantee fund

Article L421-8-1

(transferred by decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

The time limits provided for in Article 3 of Act n°. 75-619 of 11 July 1975 relating to the legal rate of interest shall run against the guarantee fund only as from the date it receives evidence to justify its intervention.

Section VI : Role of the guarantee fund in the event of withdrawal of licence of a motor insurance firm

Article L421-9

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

(Act n°. 89-1014 of 31 December 1989, Article 48, Official Journal of 3 January 1990 in force on 1 July 1990)

For the application of Article L326-17, when the guarantee fund settles the losses referred to in Article L211-11 on behalf of the firm in liquidation, it may not bring any action against the insured or policyholders of contracts to recover compensations that it paid pursuant to Article L326-17, but it shall be subrogated up to the amount of said compensations in the rights of the victims in the liquidation of the insurance firm whose licence was withdrawn.

Section VIII : Provisions specific to French overseas territories and to the collectivité territoriale of Mayotte

Article L421-10

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

(Order n°. 92-1067 of 1 October 1992, Article 3, Official Journal of 3 October 1992)

The provisions of Articles L421-1 to L421-6 and L421-9 shall apply to New Caledonia, French Polynesia and Saint Pierre-et-Micquelon.

Fines imposed on any one who knowingly breached the obligation to insure established under local regulations, including fines that a pardon has substituted for a prison sentence, shall be increased by 50% when collected in favour of the guarantee fund.

The aforementioned provisions shall take effect in the territory of Wallis and Fatuna on the first day of the calendar quarter following publication of the order enforcing the deliberation enacting an obligation to insure public liability in respect of motor traffic.

A decree in Conseil d'Etat defines the provisions for application of this Article.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale” shall be replaced by reference to the “collectivité départementale”.

Article L421-10-1

(inserted by order n°. 92-1067 of 1 October 1992, Article 3, Official Journal of 3 October 1992)

The provisions of Articles L421-1 to L421-7, L421-8-1, L421-9, L421-11 to L421-14 shall apply in the collectivité territoriale of Mayotte.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale” shall be replaced by reference to the “collectivité départementale ”.

Section IX : Special provisions applicable to car accidents occurring abroad

Article L421-11

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

(Act n°. 94-5 of 4 January 1994, Article 40, IV, VI, Official Journal of 5 January 1994)

The guarantee fund shall indemnify the victims of accidents caused by vehicles that must be covered by compulsory public liability insurance and which are normally parked in metropolitan France or in Monaco when said accidents occur on the territory of a State referred to in Article L211-4, with the exception of France and Monaco.

The intervention of the guarantee fund shall be subject to the following conditions:

The person liable for the loss must not have the compulsory public liability insurance cover.

Victims shall be indemnified on the terms provided for by the national law of the State on whose territory the accident occurred.

Article L421-12

(decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

(Act n°. 94-5 of 4 January 1994, Article 40, Official Journal of 5 January 1994)

The guarantee fund shall also indemnify victims when the accident caused by a vehicle referred to in Article L421-11 occurs during the journey directly between two territories where the treaty establishing the European Economic Community is applicable.

In this case, the intervention of the fund shall be subject to the conditions provided for in Article L421-11 as well as the following conditions:

- there must be no national insurance office for the territory crossed,
- the victims must be nationals of a State referred to in Article L211-4.

In this case, the victims shall be indemnified in accordance with the terms provided for under the national law on compulsory insurance in force in the State where the vehicle that caused the accident is normally parked.

Article L421-13

(transferred by decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

When the guarantee fund intervenes pursuant to Articles L421-11 and L421-12, it shall be subrogated in the rights of the creditor of the compensation against the person liable for the accident.

Article L421-14

(transferred by decree n°. 88-260 of 18 March 1988, Article 3, Official Journal of 20 March 1988)

A decree in Conseil d'Etat defines the terms of application of this section, in particular, the terms upon which the coincidence of conditions that give rise to the intervention of the guarantee fund is recorded, the arrangements for paying the compensation to victims through the intermediary of national insurance offices as well as the terms and conditions in which the guarantee fund shall exercise the right of subrogation provided for in Article L421-13.

A decree in Conseil d'Etat defines the provisions for the adaptation of this section in overseas départements.

Article L421-15

(inserted by Act n°. 91-716 of 26 July 1991, Article 1, XI, Official Journal of 27 July 1991 in force on 20 November 1992)

All insurance firms covering the risks of public liability ensuing from the use of motor vehicles in France shall join the relevant national insurance office in France.

Chapter II : Guarantee fund of victims of terrorist attacks and other offences

Article L422-1

(Act n°. 90-589 of 6 July 1990, Article 13, Article 14, Article 18, Official Journal of 11 July 1990 in force on 1 January 1991)

For application of Article L126-1, full compensation for losses sustained as a result of a personal injury shall be provided through the intermediary of the guarantee fund of victims of terrorist attacks and other offences.

Said fund, which is a legal entity, shall be funded by a drawdown on property insurance contracts in accordance with the terms defined by decree in Conseil d'Etat, which also defines the terms applicable to its establishment and its functioning rules.

It shall be subrogated in the rights of the victim against the person liable for the loss.

Article L422-2

(Act n°. 90-589 of 6 July 1990, Article 13, Article 18, Official Journal of 11 July 1990 in force on 1 January 1991)

The guarantee fund, within one month as from the request made to it, must make one or more provisional payments to the victim who sustained personal injury or, in the event of the victim's death, to his assigns, without prejudice to the right for said victims to refer a case to the judge for urgent applications.

The guarantee fund must make an offer of compensation to all victims within three months as from the date on which the victim provides it with evidence of its losses. Said provision shall also apply in the event of an increase of the loss.

Articles L211-15 to L211-18 shall apply to said offers of compensation. The victim may be entitled to damages in the event of offers made late or of clearly inadequate offers.

Article L422-3

(Act n°. 90-589 of 6 July 1990, Article 13, Article 18, Official Journal of 11 July 1990 in force on 1 January 1991)

In the event of dispute, if the events that resulted in the loss have given rise to criminal proceedings, the civil court shall not be obligated to stay proceedings until a final decision by the criminal court. Victims of losses shall be entitled to bring legal action against the guarantee fund within the time limit provided for in Article 2270-1 of the Civil Code.

Article L422-4

(inserted by Act n°. 90-589 of 6 July 1990, Article 13, Article 15, Article 18, Official Journal of 11 July 1990 in force on 1 January 1991)

Compensations awarded pursuant to Articles 706-3 to 706-14 of the Code of Penal Procedure by the commission established under Article 706-4 of said code shall be paid by the guarantee fund of victims of terrorist attacks and other offences.

Article L422-5

(inserted by Act n°. 92-665 of 16 July 1992, Article 36, Official Journal of 17 July 1992)

The guarantee fund may lodge an appeal against decisions handed down by the commission established under Article 706-4 of the Code of Criminal Procedure.

Chapter III : Guarantee fund of insured against the default of life insurance companies

Article L423-1

(inserted by Act n°. 99-532 of 25 June 1999, Article 68, Official Journal of 29 June 1999)

Firms licensed to operate in France subject to State control pursuant to Article L310-1, apart from those authorised to carry out the transactions mentioned in paragraph 3 of the same Article, shall join a guarantee fund to protect the rights of their insured and policyholders, members and beneficiaries of their life insurance and capitalisation contracts covering bodily injury or provided for in Article L441-1.

Insurance contracts, capitalisation bonds or contracts and contracts referred to in Article L441-1 underwritten by the following persons shall be precluded from any compensation by the guarantee fund:

- a) directors, corporate officers, partners with personal liability who directly or indirectly own at least 5% of the firm's capital, statutory auditors and insured having the same capacities in other companies of the group,
- b) third party acting on behalf of the insured, policyholders of contracts, members and beneficiaries of services referred to in a above,
- c) insurance firms governed by this Code, provident institutions governed by the French Social Security Code or the Rural Code as well as mutual insurance companies governed by the French Mutual Insurance Code, save for contracts underwritten in favour of their employees or their customers,
- d) companies within the perimeter of consolidation defined under Article 357-1 of Act n°. 66-537 of 24 July 1966 relating to business corporations, which is applicable to the insurance firm, save for contracts underwritten in favour of their employees or their customers,
- e) credit institutions and persons referred to in Article 8 of Act n°. 84-46 of 24 January 1984 relating to the business and supervision of credit institutions, save for contracts underwritten on behalf of a borrower, a customer or their employees
- f) unit trusts
- g) pension funds, save for contracts underwritten on behalf of employees or their members' pensions.

Article L423-2

(inserted by Act n°. 99-532 of 25 June 1999, Article 38, Official Journal of 29 June 1999)

I.- When at the time of the procedure provided for in Article L310-18, the insurance regulatory commission considers that one of the firms referred to in Article L423-1 is no longer able to meet its undertakings to the persons referred to in the same Article, it shall decide to call on the guarantee fund after it has consulted the chairman of its management board in writing.

If he contests the commission's decision, the chairman of the management board may, within two weeks or a fortnight as from the decision, refer the matter to the Minister for Economy. The latter may then in the interest of the insured, policyholders, members and beneficiaries of the contracts and within two weeks or a fortnight request the commission to deliberate again after he has obtained the written opinion of an arbitration board whose structure is defined by decree in

Conseil d'Etat.

The commission's decision to call on the guarantee fund shall be immediately notified to the firm in question. In the event of implementation of the procedure described in the previous paragraph, only the new deliberation of the commission shall be notified to the firm.

II.- As from said notice, the insurance regulatory commission shall launch tenders in order to transfer said firm's portfolio of contracts in accordance with the terms provided for in Article L310-18. Said tenders shall be notified to the guarantee fund.

III.- The commission shall accept the offer(s) that it considers best protects the interests of the insured, policyholders of the contracts, members and beneficiaries of benefits having regard, in particular, to the solvency of the applicant firms and the rates of reduction of undertakings that they propose. The commission's decision to transfer the portfolio of contracts to the firm(s) that it appointed and which mentions, where applicable, the rate of reduction for each type of contracts transferred shall be published in the Official Journal. Said decision shall release the assignor firm from any undertakings with regard to the insured, policyholders of the contracts, members and beneficiaries of benefits whose contracts have been transferred pursuant to the provisions of this Article. When the procedure to transfer the portfolio has not produced results, the insurance regulatory commission shall inform the guarantee fund of this act.

IV.- Separate accounts shall be kept of the transferred undertakings and assets. Any profits owed due to an underestimation of the assets or an overestimation of undertakings in the transfer balance sheet shall revert to the insured, policyholders of the contracts, members and beneficiaries of benefits whose contracts have been transferred.

V.- The transfer of all or part of the portfolio or the recorded failure of the transfer procedure shall entail withdrawal by the insurance regulatory commission of all of the defaulting firm's administrative licences. The guarantee fund shall carry out the acts necessary to manage the part of the portfolio of contracts that has not been transferred until the liquidator has been appointed. The provisional directors appointed, where applicable, by the insurance regulatory commission may carry out such acts of management on behalf of the guarantee fund.

Article L423-3

(inserted by Act n°. 99-532 of 25 June 1999, Article 68, Official Journal of 29 June 1999)

In the event the portfolio is transferred, any part of the rights of the insured, policyholders of the contracts, members and beneficiaries of benefits not covered by the assignee shall be guaranteed by a guarantee fund payment to the assignee within the limits provided by decree in Conseil d'Etat. When the procedure to transfer the portfolio has not produced results, the rights of the insured, beneficiaries of the contracts, members and beneficiaries of benefits shall be guaranteed by a guarantee fund payment within the limits provided by decree in Conseil d'Etat. The guarantee fund shall have a right of access to documentary evidence relating to the calculation of its contribution, the amount of which shall be drawn up by the insurance regulatory commission.

Article L423-4

(inserted by Act n°. 99-532 of 25 June 1999, Article 68, Official Journal of 29 June 1999)

The guarantee fund is a private legal entity. It shall be managed by a management board acting under the supervision of a supervisory board. The members of the management board and of the supervisory board must satisfy the conditions set forth in Article L322-2.

The supervisory board shall exercise permanent supervision over the management of the guarantee fund. It shall draw up the statutes and rules and regulations which shall be approved by order of the Minister in charge of the Economy. It shall appoint a chairman from amongst its members.

The supervisory board shall approve the accounts and appoint the statutory auditors. At the end of each financial year, a copy of the approved accounts shall be submitted to the Minister in charge of the Economy. The guarantee fund shall be subject to the control of the inspectorate general of finance.

The supervisory board shall be comprised of twelve members appointed by the member firms; each member shall represent one or more of said firms. The composition of the supervisory board determined in the statutes of the guarantee fund must be representative of the various categories of insurance firms governed by this Code.

The decisions of the supervisory board shall be taken by a simple majority. Each of the members of the supervisory board shall have a number of votes commensurate with its total financial contribution to the guarantee fund and with that of the firms that appointed it as their representative. In the event of a tie in voting, the chairman shall have the casting vote.

The management board shall be comprised of three members appointed by the supervisory board which shall appoint a chairman from amongst them. The members of the management board may not simultaneously discharge duties within firms that are members of the guarantee fund or be paid by one of them. Its chairman may discharge his duties only after approval by the Minister for Economy.

The Minister for Economy or his representative as well as the chairman of the insurance regulatory commission or his representative may, upon their request, be heard by the supervisory board and management board.

The insurance regulatory commission shall hear the chairman of the guarantee fund in respect of any question that concerns an insurance firm in respect of which it plans to implement the provisions of this chapter.

The chairman of the management board shall also be heard, upon his request, by the insurance regulatory commission.

Article L423-5

(inserted by Act n°. 99-532 of 25 June 1999, Article 68, Official Journal of 29 June 1999)

The guarantee fund shall be subrogated in the rights of the insured, policyholders of the contracts, members and beneficiaries of benefits up to the amount of sums that it paid.

The guarantee fund shall also be subrogated within the same limits in the rights of the defaulting firm up to the sums owed by virtue of the performance of valid reinsurance treaties.

The guarantee fund may bring any action for damages against the de jure or de facto

corporate officers of the insurance firm whose default entailed its intervention in order to obtain repayment of all or part of the sums that it paid. It shall inform the insurance regulatory commission thereof.

Article L423-6

(inserted by Act n°. 99-532 of 25 June 1999, Article 68, Official Journal of 29 June 1999)

Members of the management board and the supervisory board of the guarantee fund as well as any person who, by virtue of his duties, has access to documents and information in the possession of the guarantee fund shall be bound by professional secrecy in accordance with the terms and under the penalties provided for in Article 226-13 of the Penal Code. Said secrecy shall not be binding on the judicial authority acting in the scope of criminal proceedings or civil courts ruling on an appeal lodged against a decision by the guarantee fund, or the insurance regulatory commission.

Article L423-7

(inserted by Act n°. 99-532 of 25 June 1999, Article 68, Official Journal of 29 June 1999)

Member institutions of the guarantee fund shall provide the guarantee fund with the financial resources that it needs to carry out its assignments in accordance with the terms defined by decree in Conseil d'Etat. The guarantee fund may also issue non marketable, registered insurance certificates which the member firms underwrite when they join the fund.

When the losses sustained by the guarantee fund cannot be covered by contributions already called, the insurance certificates referred to in the previous paragraph may no longer be remunerated. The nominal of each of said certificates shall then be reduced in the proportion necessary to absorb the losses. Said insurance certificates shall not be repayable.

The guarantee fund may borrow from its members. For this purpose, it may create or request its members to create on its behalf the guarantees required by contract.

Lack of membership or absence of payment of the called contribution to the guarantee fund shall be liable to the penalties provided for under Article L310-18 and penalties for late payment paid directly to the guarantee fund in accordance with the terms defined by its rules and regulations.

Article L423-8

(Act n°. 99-532 of 25 June 1999, Article 68, Official Journal of 29 June 1999)

(order N°.2001-350 of 19 April 2001, Article 6, XXVI, Official Journal of 22 April 2001)

A decree in Conseil d'Etat specifies:

- the terms and limits of compensation per insured, policyholder, member or beneficiary, the compensation procedures and time limits as well as the rules concerning information to be provided to customers,

- the methods of defining the rates of reduction in the event of the transfer of the defaulting firm's portfolio,
- the features of insurance certificates as well as the terms of their remuneration,
- the total amount of annual contributions owed by the member firms,
- the terms in which a part of said contributions cannot be transferred to the guarantee fund upon creation of the relevant guarantees,
- the methods of allocating said annual contributions based on the amount of technical reserves, weighted by contributions already paid as well as the indicators of the financial situation of each of the members and in particular their solvency, reflecting the objective risks that the fund incurs by reason of the member,
- the terms and conditions applicable to the appointment of members of the supervisory board as well as their term of office.

Said decree may be amended only after consulting the chairman of the guarantee fund's management board.

Title III

Special insurance institutions

Chapter I: The central reinsurance fund

Section II: Transactions carried out with the guarantee of the State

Paragraph II : Extraordinary and nuclear risks

Article L431-4

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

(Act n°. 89-1014 of 31 December 1989, Article 48, Official Journal of 3 January 1990 in force on 1 July 1990)

The central reinsurance fund, acting with the guarantee of the State, shall be empowered to underwrite transactions to insure or reinsure risks as a result of extraordinary events such as foreign or civil states of war, offences against public policy, civil commotion or industrial disputes when said risks arise from the use of any kind means of transportation or relate to property in transit or stocked.

Article L431-5

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

The central reinsurance fund, acting with the guarantee of the State, shall grant operators of ships and nuclear plants the covers in respect of which intervention of the State is provided for pursuant to Act n°. 65-956 of 12 November 1965 and Act n°. 68-943 of 30 October 1968.

Article L431-6

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

A decree in Conseil d'Etat defines the terms of application of Articles L431-4 and L431-5, in particular, the terms in which treaties or contracts shall be drawn up and the rates set for the transactions referred to in said Articles.

Article L431-7

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

A separate account opened in the fund's records shall record all of the insurance and reinsurance transactions referred to in Articles L431-4 and L431-5.

Paragraph II : Risks of natural disasters

Article L431-9

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

(Act n°. 90-509 of 25 June 1990, Article 2, Official Journal of 27 June 1990 in force on 1 August 1990)

The central reinsurance fund shall be empowered to underwrite transactions to reinsure risks as a result of national disasters, with the guarantee of the State, in accordance with the terms defined by decree in Conseil d'Etat.

Paragraph IV : Risks of terrorist attacks

Article L431-10

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

The central reinsurance fund shall be empowered to underwrite transactions to reinsure risks as a result of bombing or terrorist attacks, with the guarantee of the State.

Section III: Management transactions

Paragraph I : National guarantee fund for agricultural disasters

Article L431-11

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

The central reinsurance fund shall be responsible for the accounting and financial management of the National guarantee fund for agricultural disasters referred to in Article L442-1 in a separate account from those which record the other transactions underwritten by said establishment.

The central reinsurance fund shall be reimbursed for costs incurred in managing the fund in accordance with the terms defined by decree in Conseil d'Etat.

Paragraph II: National guarantee fund for agricultural disasters in overseas départements

Article L431-12

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

The central reinsurance fund shall be responsible for the accounting and financial management of the National guarantee fund for agricultural disasters in overseas départements referred to in Article L442-2 in a separate account from those which record the other transactions underwritten by said establishment.

The central reinsurance fund shall be reimbursed for costs incurred in managing the fund in accordance with the terms defined by decree in Conseil d'Etat.

Paragraph IV : Compensation fund of construction risks insurance

Article L431-14

(decree n°. 85-863 of 2 August 1985, Article 4, Official Journal of 15 August 1985)

(Amending Finance Act n°. 85-1404 of 30 December 1985, Article 26, I, II, Official Journal of 31 December 1985)

Amending Finance Act n°. 89-936 of 29 December 1989, Article 42, Official Journal of 30 December 1989)

(Act n°. 89-1014 of 31 December 1989, Article 47, Official Journal of 3 January 1990 in force on 1 July 1990)

A compensation fund of construction risks insurance has been established in order to contribute, within the framework of agreements that may be entered into for said purpose with the insurance firms, to the compensation of losses affecting buildings whose sites were opened prior to a date set by decree in Conseil d'Etat and from which date the relevant premiums shall no longer be collected.

The fund may enter agreements with insurance firms in order to set off the financial effects of the increase in construction costs on their ten year insurance cover.

The fund shall make a financial contribution to actions to prevent disorders and to promote construction quality.

The central reinsurance fund shall be responsible for managing the fund.

The fund shall be funded by a contribution by the insured based on insurance premiums or contributions issued as from 1 January 1986 relating to damage to the works insurance covers

as well as ten year insurance covers underwritten by any one, whether or not tied to the owner by a works contract, to cover its liability in relation to the building work.

Contracts covering sites opened as from 1 January 1986 that include covers other than those referred to in the previous paragraph must identify the part of the premium or contribution for the latter covers.

The rate of the contribution is 8.5% for insurance premiums or contributions paid by craft undertakings and 25.5% for other insurance premiums or contributions.

For a period from 1 January 1991 to 31 December 1996, the fund was funded by an additional contribution owed by any one who underwrote a ten year liability insurance contract to cover its warranty in relation to building work.

The additional contribution shall be based on the turnover or amount of fees, exclusive of tax, corresponding to building work or services performed in France that persons liable must declare to their liability insurer.

The rate of the additional contribution is equal to 0.4% per cent.

The contribution and the additional contribution called upon the annual issue of the premium shall be collected according to the same rules, subject to the same guarantees and same penalties as the tax on insurance agreements provided for pursuant to Articles 991 et seq. of the General Tax Code.

Upon the annual issue of the premium or contribution, the additional contribution shall be called on the basis of the turnover or amount of fees of the last year known; it shall be adjusted subsequently upon the call of the premium or contribution after the turnover or amount of fees actually made or collected during the year in question has been recorded.

The fund's resources may also derive from loans.

A decree in Conseil d'Etat defines the terms of application of this article.

Chapter II: French insurance company for foreign trade known as "Coface"

Section I : General provisions

Article L432-1

The Government shall be authorised, by decree in Conseil d'Etat issued after consulting the national credit board, to take all measures to improve credit and insurance credit terms necessary for the expansion of France's foreign trade. In particular, for this purpose, it may cause the establishment of new institutions specialised in export or import credit and propose the amendment of the statutes or reorganisation of existing institutions and any administrative institutions or institutions subsidised by the State whose objects are export or import credit insurance to Parliament.

Article L432-2

(Amending Finance Act n°. 97-1239 of 29 December 1997, Article 37, I, Official Journal of 30 December 1997)

The guarantee of the State may be granted in whole or in part:

1 to the French insurance company for foreign trade for its transactions to insure commercial, political, monetary risks, disasters and certain extraordinary risks as well as for transactions to manage related rights and obligations.

2 to exporters for transactions provided for in Article 53 of Act n°. 48-1516 of 26 September 1948, determining the valuation of ways and means of the general budget for the 1948 financial year and relating to various financial provisions.

The guarantee of the State may also be granted to exporters to cover, in accordance with the terms defined in contracts that the Minister in charge of the Economy and Finance enters into with them, a part of the losses that may result from expenses incurred to canvass certain foreign markets, advertise and build up stocks with a view of developing exports of said markets.

Article L432-3

(Amending Finance Act n°. 97-1239 of 29 December 1997, Article 37, II, Official Journal of 30 December 1997)

The guarantee of the State shall be granted after consulting the foreign trade guarantees and credit commission, established by Article 15 of Act n°. 49-874 of 5 July 1949, apart from that relating to management transactions referred to in paragraph 1 of Article L432-2 in respect of which it is granted by order of the Minister for Economy.

Article L432-4

(Amending Finance Act n°. 97-1239 of 29 December 1997, Article 37, III, Official Journal of 30 December 1997)

The French insurance company for foreign trade shall draw up separate accounting records for transactions that it carries out with the guarantee of the State pursuant to Article L432-2 of this Code. An agreement between the State and the French insurance company for foreign trade shall specify the terms and conditions in which said records shall be kept and the terms in which they shall be audited and certified by one or more statutory auditors.

Subject to the rights of holders of receivables arising from transactions carried out with the guarantee of the State, no creditor of the French insurance company for foreign trade other than the State may take advantage of any right to the property and rights ensuing from the records drawn up pursuant to the previous paragraph even on the basis of Act n°. 85-98 of 25 January 1985 relating to the judicial rehabilitation and liquidation of firms, Act n°. 84-148 of 1 March 1984 relating to the prevention and friendly settlement of difficulties affecting firms or Articles L310-25 and L326-2 to L327-6 of this Code.

Title IV

Special insurance schemes

Chapter I: Provisions relating to certain group benefits and insurance transactions

Section I : General provisions

Article L441-1

(Act n°. 94-5 of 4 January 1994, Article 29, I, Official Journal of 5 January 1994 in force on 1 July 1994)

Life insurance firms shall be authorised to directly or indirectly, inter alia, by the collection of premiums or contributions, by the formation of capital payable on survival to a stipulated age only, by the formation and service of pension or annuities, in any transaction to acquire or enjoy rights on survival to a stipulated age only in which a relationship is established between the revaluation of premiums and those of the rights on survival to a stipulated age only previously earned and the assets and rights of which shall be isolated from those of the other insured and subject to the terms provided for in this chapter.

Article L441-4

(Act n°. 94-5 of 4 January 1994, Article 29, III, Official Journal of 5 January 1994 in force on 1 July 1994)

Any contracts or agreements in violation of the provisions of this chapter and the decrees in Conseil d'Etat entered into pursuant to Articles L441-7 and L441-10 shall be null and void ipso jure.

Article L441-5

No compensation may be claimed from the State by reason of the intervention of order n°. 59-75 of 7 January 1959 relating to certain collective provident transactions and insurance transactions codified in this chapter.

Article L441-6

(Act n°. 92-1336 of 16 December 1992, Article 322, Article 329, Official Journal of 23 December 1992 in force on 1 March 1994)

Any person who, even in an intermediary capacity, proposes contracts or agreements in violation of the provisions of this chapter or cause such contracts or agreements to be underwritten shall be punished by a fine of FRF 25,000 and a six month prison sentence or one of said two penalties only.

Article L441-7

(Act n°. 94-5 of 4 January 1994, Article 29, IV, Official Journal of 5 January 1994 in force on 1

July 1994)

A decree in Conseil d'Etat determines the technical rules and terms of application of this chapter.

Section II : Technical and accounting rules

Article L441-8

(Act n°. 94-5 of 4 January 1994, Article 29, V, Official Journal of 5 January 1994 in force on 1 July 1994)

When an insurance firm intends underwriting transactions governed by Article L441-1, it must keep entirely separate accounts for said transactions.

The assets corresponding to said transactions shall be allocated to pay benefits, whether settled or not. They shall be encumbered for this purpose by:

- a) a legal mortgage on real property which ranks as at the date of its registration,
- b) a lien on movables and a lien on immovables that shall take precedence over the liens respectively provided for in the first and second paragraphs of Article L327-2.

Section IV : Transitional provisions

Article L441-10

(Act n°. 94-5 of 4 January 1994, Article 29, VI, Official Journal of 5 January 1994 in force on 1 July 1994)

Any existing agreements that underwrite or provide for transactions governed by Article L441-1 shall be brought into compliance with the provisions of this chapter within the time limit imposed by decree in Conseil d'Etat. Where applicable, said decree defines the terms applicable to the adaptation of earlier contracts and agreements.

Chapter II: Other special insurance schemes

Section I : Scheme for the compensation of agricultural disasters

Article L442-1

As it ensues from Article 1 of Act n°. 64-706 of 10 July 1964, the National guarantee fund for agricultural disasters shall compensate the material damage caused to farms by disasters such as they are defined by said Act. Said fund shall also further the development of insurance against agricultural risks.

Article L442-2

As it ensues from Article 1 of Act n°. 74-1170 of 31 December 1974, the guarantee fund for agricultural disasters in overseas départements shall compensate material damage caused to farms by disasters as they are defined under said Act. Said fund shall play a role in the development of insurance against agricultural risks.

Section II : Compulsory health, disability and maternity insurance scheme for farmers and non wage earning members of their families (French acronym AMEXA)

Article L442-3

As it ensues from Article 1106-9 of the Rural Code, persons subject to the compulsory health, disability and maternity insurance scheme for farmers and non wage earning members of their families may be insured by the firms referred to in Article L310-1 of this Code when they act in accordance with the relevant terms of the Rural Code.

Section III : Insurance of farmers against private life accidents, accidents at work and occupational diseases

Article L442-4

As it ensues from Article 1234-8 of the Rural Code, persons subject to the compulsory insurance scheme of farmers against private life, accidents at work and occupational diseases may be insured by the firms referred to in Article L310-1 of this Code when they act in accordance with the relevant terms of the Rural Code.

Article L442-5

As it ensues from Article 1234-20 of the Rural Code, persons entitled to underwrite additional insurance against private life accidents, accidents at work and occupational diseases may do so with the firms referred to in Article L310-1 of this Code when they act in accordance with the relevant terms of the Rural Code.

Section IV : Compulsory health, disability and maternity insurance scheme of the non wage earning professionals in the non agricultural professions

Article L442-6

As it ensues from Article 14 of Act n°. 66-509 of 12 July 1966, as amended, the firms referred to in Article L310-1 may be empowered to collect contributions and service benefits on behalf of the regional mutual health and maternity insurance funds of non wage earning workers of the non agricultural professions.

Book V

General agents, brokers and other intermediaries

Of insurance and capitalisation

Title I

Presentation of transactions

Chapter I : Main principles

Article L511-1

A decree in Conseil d'Etat outlines the presentation of a transaction underwritten by the firms referred to in Article L310-1 and determines the persons empowered to make such presentation.

When such presentation is made by a person thus empowered, the employer or principal shall be legally liable in accordance with the terms of Article 1384 of the Civil Code for damage caused by the fault, carelessness or negligence of its employees or agents acting in said capacity, who, for application of this Article, shall be deemed to be employees, notwithstanding any agreement to the contrary.

Article L511-2

(Act n°. 89-1014 of 31 December 1989, Article 41, Official Journal of 3 January 1990 in force on 1 July 1990)

Persons convicted of one of the offences referred to in paragraphs 1, 2 and 3 of Article L322-2 or persons concerned by one of the measures provided for in paragraphs 4 and 5 of the same Article may not carry on the occupation of general agent or insurance or reinsurance broker.

The convictions and measures referred to in the previous paragraph shall entail a prohibition on presentation of insurance or reinsurance transactions by agents and employees of firms, general agents, brokers and brokerage firms.

The courts may also impose said prohibitions on any person convicted of violation of insurance law or regulations.

Article L511-3

(Act n°. 89-1014 of 31 December 1989, Article 56, Official Journal of 3 January 1990 in force on 1 July 1990)

The provisions of this chapter shall apply in French overseas territories and in the collectivité territoriale of Mayotte.

Nota bene: Article 75 of Act 2001-616 of 11 July 2001: In all laws and regulations in force in Mayotte, reference to the “collectivité territoriale of Mayotte” shall be replaced by reference to “Mayotte” and reference to the “collectivité territoriale” shall be replaced by reference to the “collectivité départementale”.

Book IV

General agents, brokers and other intermediaries of insurance and capitalisation

Title I

Presentation of transactions

Chapter IV: Control of terms applicable to presentation

Section IV : Miscellaneous provisions and penalties

Article L514

(inserted by Act N° 99-532 of 21 June 1999 art. 43 II Official Journal of 29 January 1999)

The underwriting associations, that benefit from derogation to the rules of presentation of insurance transactions but that carry out presentation of insurance products, are liable to declare to the Insurance Supervisory Commission their activity and the type of products they present. Likewise, they shall inform the latter about any modification in the nature of their activity as well as the cessation of their activity.

Book V

General agents, brokers and other intermediaries of insurance and capitalisation

Title I

Presentation of transactions

Chapter IV: Control of the terms applicable to presentation

Section IV : Miscellaneous provisions and penalties

Article L514-1

(Act n°. 92-1336 of 16 December 1992, Article 322, Official Journal of 23 December 1992 in force on 1 March 1994)

Violation of the provisions of Article L511-2 shall be punished by a two year prison sentence and a fine of FRF 40,000 or one of said two penalties only.

Article L514-2

(Act n°. 81-5 of 7 January 1981, Article 36, IV, Official Journal of 8 January 1981)

(Act n°. 92-1336 of 16 December 1992, Article 322, Article 329, Official Journal of 23 December 1992 in force on 1 March 1994)

(Act n°. 94-5 of 4 January 1994, Article 38, II, Official Journal of 5 January 1994 in force on 1 July 1994)

The act of presenting in view of underwriting or cause the underwriting of contracts on behalf of a firm subject State control pursuant to Article L310-1 and not empowered to underwrite the relevant transactions in France shall be punishable by a fine of FRF 200,000 and in the event of a repetition offence, a fine of FRF 100,000 and a six month prison sentence.

The fine provided for in this Article shall be imposed for each of the contracts proposed or underwritten; the total of the fines incurred may not exceed FRF 40,000 and FRF 20,000 in the event of a repeat offence.

Article L514-4

(Act n°. 89-1014 of 31 December 1989, Article 43, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 92-1336 of 16 December 1992, Article 322, Official Journal of 23 December 1992 in force on 1 March 1994)

Violation of the provisions of Article L530-1 and L530-2 shall be punished by a one year prison sentence and a fine of FRF 60,000 or one of said two penalties only.

Title II

Provisions specific to general insurance agents

Sole chapter

Article L520-1

The open-ended contract entered into between insurance firms and their general agents may always be terminated by decision of one of the contracting parties.

Nevertheless, the termination of the contract by the will of one of the contracting parties only may give rise to damages, which shall be set in accordance with Article 1780 of the Civil Code.

The parties may not waive in advance any right to claim damages pursuant to the above provisions.

Article L520-2

(Act n°. 90-1260 of 31 December 1990, Article 5, Official Journal of 5 January 1991)

The status of general insurance agents and riders thereto shall be approved by decree, after it has been negotiated and drawn up by the concerned professional organisations.

Title III

Provisions specific to brokers and insurance brokerage companies

Sole chapter

Article L530-1

(inserted by Act n°. 89-1014 of 31 December 1989, Article 42, Official Journal of 3 January 1990 in force on 1 July 1990)

All insurance brokers or brokerage companies to which funds are entrusted, even occasionally, with a view to being paid to the firms referred to in Article L310-1 or to the insured must at all times prove that they have a special financial guarantee to guarantee repayment of said funds to the insured.

Said guarantee may ensue only from a surety bond entered into by a credit institution authorised for this purpose or an insurance firm governed by the Insurance Code.

The obligation provided for in this Article shall not apply to payments in respect of which an insurance firm has granted a broker a written authorisation expressly collect premiums and subsidiarily to settle losses.

Article L530-2

(inserted by Act n°. 89-1014 of 31 December 1989, Article 42, Official Journal of 3 January 1990 in force on 1 July 1990)

All insurance brokers or brokerage companies must be able at all times to prove the existence of an insurance contract covering the pecuniary consequences of their professional public liability.

Article L530-3

(inserted by Act n°. 89-1014 of 31 December 1989, Article 42, Official Journal of 3 January 1990 in force on 1 July 1990)

Persons who are not insured but who made payments for contracts not governed by the provisions of Article L351-4 to a broker or a brokerage company on the list referred to in Article L530-2-2 and which are covered by an apparent undertaking by one of the firms referred to in Article L310-1 shall be guaranteed by said firm when the public liability insurance of the broker or brokerage firm that received said payments cannot be brought into play.

The insurer that granted its guarantee pursuant to the provisions of the previous paragraph shall be subrogated in the insured's rights and legal actions pursuant to the provisions of Article L530-1.

Article L530-2-2

(inserted by Act n°. 89-1014 of 31 December 1989, Article 42, Official Journal of 3 January 1990 in force on 1 July 1990)

(Act n°. 99-532 of 25 June 1999, Article 46, Official Journal of 29 June 1999)

The Minister for Economy shall ensure compliance with the requirements provided for in Articles L511-1 (first paragraph), L511-2, L530-1 and L530-2. The list of insurance brokers and brokerage companies established in France shall be kept by the concerned insurance professionals in accordance with the terms defined by decree in Conseil d'Etat.

Said list shall be published each year in the Official Journal of the French Republic.

Article L530-3

(inserted by Act n°. 89-1014 of 31 December 1989, Article 42, Official Journal of 3 January 1990 in force on 1 July 1990)

A decree in Conseil d'Etat defines the terms of application of this chapter as well as the additional measures required to guarantee the insured's protection.