
The Paris office of Hogan Lovells is pleased to provide this English language edition of our monthly e-newsletter, which offers a legal and regulatory update covering France and Europe for December 2018 / January 2019.

Please note that French legal concepts are translated into English for information only and not as legal advice. The concepts expressed in English may not exactly reflect or correspond to similar concepts existing under the laws of the jurisdictions of the readers.

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- **Capital Markets**

France – New decree regarding the Blockchain

France confirms its advance in new technologies for financial securities by publishing a [decree dated 24 December 2018](#) in order to clarify the characteristics and consequences of the use of the Blockchain.

New technologies have been recognised under French law by modernising the transmission of financial securities through the shared electronic recording system ("DEEP"), more commonly known as Blockchain.

The [ordinance of 8 December 2017](#) allowed companies to use the Blockchain for the representation and transfer of their unlisted financial securities. The order confers the same effects on the registration of an issue or sale of financial securities in a blockchain as the registration of financial securities in a securities account.

This initiative was followed by a decree which clarified the terms of application of the ordinance and the use of this device for the issue and transfer of *minibons*. It essentially describes the characteristics and consequences of the use of the Blockchain, by amending the articles of the French Monetary and Financial Code and Commercial Code.

The device must be designed and implemented in such a way as to ensure the registration and integrity of registrations. It must be able to identify the owners of the shares, the nature and number of shares held. Registrations in this system must be subject to an updated business continuity plan including an external periodic data retention system. In addition, the decree specifies the procedures for pledging the securities listed in the device.

France – Reform modernising the French legal framework for asset management and debt financing.

The reform operated by [Ordinance n°2017-1432](#) was the subject of two implementing decrees dated 19 November 2018 specifying the conditions under which funding entities (*organismes de financements*) can provide loans to companies ([click here](#) to access to Decree n°2018-1004) and the terms and conditions under which they can acquire and assign receivables ([click here](#) to access to Decree n°2018-1008).

- **Competition**

France – Release of the FCA's procedural notice on settlement

The French Competition Authority (FCA) released a [procedural notice on settlement](#) on December 21st, 2018.

As a reminder, the settlement procedure, introduced into French law by the "Macron law" of August 6th, 2015, allows companies to obtain a fine reduction if they do not challenge the allegations brought against them.

The procedural notice clarifies some points, in particular as regards the possibility for companies to present comments on the amount of the fine decided by the FCA within the range of minimum and maximum amounts. The FCA also confirms its willingness to favor cases in which all companies opt for the transaction, in order to maximize procedural gains.

European Union – Release of the directive aiming to strengthen the European competition network

[Directive \(EU\) 2019/1](#), also known as the "ECN+ Directive", aiming at providing the competition authorities of the Member States with increased resources and to harmonize some applicable procedural rules has been published in the Official Journal of the European Union of January 14th, 2019.

Following the transposition of this directive into French law, scheduled before February 4th, 2021, the FCA will be able notably to:

- decide whether to prosecute ("principle of opportunity" measure);
- start proceedings ex-officio to impose interim measures;
- impose structural remedies to undertakings, such as the obligation to divest a business unit, in case of anticompetitive practices;
- use as evidence "*covert recordings made by natural or legal persons which are not public authorities, provided those recordings are not the sole source of evidence*";
- increase the amount of fines imposed on business associations.

- **Data Protection**

France – Publication of the ordinance rewriting the entire French Data Protection Act.

On 13 December 2018, [Ordinance No. 2018-1125](#) rewriting the entire French Data Protection Act No. 78-17 of 6 January 1978 (the "FDPA") was published.

The purpose of this ordinance is to simplify the FDPA and make it more consistent with European Union law. It therefore provides a more readable plan by rewriting, for example, the articles related to the territorial scope, the consent or the prohibition of the processing of "sensitive" data. In addition, the ordinance makes direct references to the articles of the General Data Protection Regulation concerning, among others, the obligations of data controllers or processors.

This ordinance will come into force no later than June 2019, at the same time as the new decree implementing the FDPA.

France - Evolution of the cooperation protocol of the DGCCRF and the CNIL about the protection of the consumers and their personal data.

On 31st January 2019, the DGCCRF (Directorate-General for Competition, Consumer Affairs and Prevention of Fraud) and the CNIL signed a new [cooperation protocol](#) aimed at updating the convention on consumers' protection and their personal data (initially signed in January 2011) and adapting it to new digital challenges.

The main areas of the cooperation include raising consumer awareness on the risks involved in disclosing their personal data, carrying out joint controls by both authorities and facilitating the exchange of information on non-compliance with consumer law and the protection of consumers' personal data.

An annual review will be conducted to ensure the follow-up of this cooperation.

- **Employment**

France - Exceptional purchasing power bonus

[Law n°2018-1213 dated 24 December 2018](#) (*Journal officiel dated 26 December 2018*) provides the possibility for employers to pay an exceptional bonus to their employees that will be exempted from income tax and from all social contributions. This bonus aims at

boosting taxpayer purchasing power and must be paid between December, 11 2018 and March, 31 2019. The government-issued explanatory notes DSS/5B/5D/2019/2 dated 4 January 2019 specifies the conditions that the bonus has to meet in order to be tax free.

France - The social rescript procedure: new areas

[The Decree n° 2018-1227 dated 24 December 2018](#) (*Journal officiel dated 26 December 2018*) broadens the social rescript procedure to new areas. Employers are entitled to ask to the social administration questions regarding the conformity of the rules of procedure, the calculation of the quota of authorized trainees, the subjection of a corporate officer or a person holding a corporate office to the obligation of unemployment insurance and the card delivered to employees working in the building and civil engineering sector.

France - Gender equal pay gap: new obligations

[Law n°2018-771 dated 5 September 2018](#) (*Journal officiel dated 6 September 2018*) imposes an obligation on companies with more than 50 employees to develop a gender equal pay index. [The Decree n° 2019-15 dated 8 January 2019](#) (*Journal officiel dated 9 January 2019*) provides details about the methodology for calculating the indicators required in the equal pay index, the publication procedures of the equal pay index, and the financial penalty applicable when the company does not achieve the required score.

France - Extension of the general reduction in social contributions

[The Decree n°2018-1356 dated 28 December 2018](#) (*Journal officiel dated 30 December 2018*) sets the new parameters applicable for the calculation of the general reduction in social contributions for employers. From the 1st of January 2019, the general reduction in social contributions will involve employers' contributions to supplementary pension plans. From the 1st of October 2019, the general reduction in social contributions will also include employer's contribution to unemployment insurance.

France - Publication of the decrees implementing the vocational training reform

[47 Decrees](#) implementing the [Law n° 2018-771 dated 5 September 2018](#) (*Journal officiel dated 6 September 2018*) have been published in the end of 2018. These decrees provide details regarding the vocational training, apprenticeship and the Personal Training Account reforms.

- **Finance**

France - Entry into force on 1 January 2019 of Decree No. 2018-1057 dated 29 November 2018 on foreign investments subject to prior authorisation

Decree No. 2018-1057 dated 29 November 2018 (OJ No. 0278 of 1 December 2018 text No. 11), on foreign investments subject to prior authorization, extends the scope of these investments to artificial intelligence, data storage, semiconductors, space and certain research and development activities (cybersecurity, artificial intelligence, robotics, additive manufacturing, semiconductors). It applies to

applications submitted on or after 1 January 2019.

France - Law No. 2019-30 dated 19 January 2019 empowering the Government to take by ordinance the measures to prepare for the United Kingdom's withdrawal from the European Union

Law No. 2019-30 dated 19 January 2019 (OJ No. 0017 of 20 January 2019 text No. 1), empowering the Government to take by ordinance the measures to prepare for the withdrawal of the United Kingdom from the European Union, is part of the plan linked to a potential Hard Brexit, which was launched on 17 January 2019.

The Law authorises the Government to take measures by ordinance before 20 January 2020, including measures relating to the United Kingdom's interbank settlement and delivery settlement systems, securitisation, collective investment management, financial services framework agreements and the accreditation of British entities in France.

International - Approval by GHOS of the final revisions to the Basel Committee's market risk framework and work program – Press release of 14 January 2019

In a press release dated 14 January 2019 (GHOS Press release), the Group of Central Bank Governors and Heads of Supervision (GHOS) endorsed the revision of the capital framework for market risk, which should result in a weighted average increase of around 22% in total requirements compared to the Basel 2.5 framework. The GHOS also approved the priorities and work program of the Basel 2019 Committee, focusing in particular on monitoring the impact of post-crisis reforms and promoting strong supervision.

- **Insurance**

France – ML-FT – Guidelines relating to clients' identification, verification of the identity of clients and knowledge of the clients

The French Regulatory Authority (*Autorité de contrôle prudentielle et de résolution* – "ACPR") has published on 14 December 2018 [guidelines](#) on monitoring measures to be implemented by entities that are subject to anti money laundering and terrorist financing regulations ("AML-FT") ("**Guidelines**") replacing notably topics 3, 4 and 5 of the sectorial implementation rules on AML-FT applicable to the insurance industry.

These Guidelines further detail the rules applicable in terms of clients' identification, verification of the identity of clients, knowledge of the clients and data retention, as well as the modalities for having recourse to third party introduction or outsourcing AML-FT requirements.

France – Resolution – Preventive recovery plan

The ACPR has published on 31 January 2019 a [notice](#) relating to operational application of the regime of preventive recovery plan in the

insurance industry ("**Notice**"), which completes the resolution regime for insurance undertakings that stems from the Ordinance no. 2017/1608 of 27 November 2017 ("**Ordinance**").

The Notice presents the combination between the different plans and reports that stem from the Directive 2009/138 of 25 November 2009 ("**Solvency II**") and the resolution regime that stems from the Ordinance. The Notice also describes the content of recovery plans and the possibility to benefit from simplified modalities for the submission of a recovery plan, and covers the case of the recovery plan integrated to a financial conglomerate with a banking head and insurance subsidiaries or with an insurance head and banking subsidiaries.

France – Eurocroissance – Extension of the authorisation to transfer a share of unrealised gains from "euro" funds to "eurocroissance" funds

The [Decree](#) no. 2018-1303 dated 28 December 2018 amending the Decree no. 2016-959 of 13 July 2016 relating to assets transfers towards undertakings that give rise to the constitution of a provision for diversification ("**Decree**"), extends for three (3) years the temporary arrangement authorising insurance undertakings to proceed to the transfer of shares of unrealised gains from "euro" funds to "eurocroissance" funds. The Decree entered into force on 30 December 2018.

France – Insurance intermediaries – Decrease of the registration fee

The [Order](#) dated 12 December 2018 reduced the annual registration fee to paid by insurance intermediaries to the French insurance intermediaries registry (*Organisme pour le registre unique des intermédiaires en assurance, banque et finance* – ORIAS) from EUR 30 to EUR 25 starting from 1st January 2019.

France – Guarantee from the French State for international commerce – Modifications of the conditions for granting this guarantee and the modalities of said guarantee

The [Decree](#) no. 2018-1162 dated 17 December 2018 relating to the French State guarantee granted for operations which contribute to the development of French international commerce which present a strategic interest for the French economy abroad ("**Decree**") modifies Chapter II of Title IV of Book IV of the French Insurance Code to specify the modalities and conditions under which the French State can grant its guarantee for operations which contribute to French international commerce.

The Decree, which entered into force on 20 December 2018 specifies the criteria, and notably the financial criteria, that concerned persons must comply with in order to benefit from the French State guarantee, which can only be granted to undertakings having their head office in France and carrying-on operations with a value exceeding amount more than ten (10) million euros.

European Union – Non-life cross border insurance business of a long term nature – EIOPA's expectations

The European Insurance and Occupational Pensions Authority ("**EIOPA**") has published an [Opinion](#) dated 21 December 2018 ("**Opinion**") outlining its expectations with regard to undertakings carrying out non-life cross border insurance business of a long term nature, in relation to the calculation of technical provisions, governance and notably key functions and the administrative, management and

supervisory body, and the supervision of such undertakings.

This Opinion notably highlights the need to select complete, reliable and up-to date data for the calculation of technical provisions and to be aware of the local specificities and actuarial skills. It also contains concrete examples and quantitative information applicable as for example to the French construction defect insurance and for the Italian medical malpractice insurance.

- **Intellectual Property**

France - Entry into force of the implementing Decree no 2018-1126 of 11 December 2018 related to the protection of trade secrets.

Implementing the [Law no. 2018-670 of 30 July 2018](#) (see [Legal and Regulatory Updates – July /August 2018](#)), the [Decree no. 2018-1126 of 11 December 2018](#) related to the protection of trade secrets further clarifies and specifies the legal provisions.

The Decree includes provisions specifying the content and the legal regime of the provisional and protective measures that the judge may order in the context of *ex parte* or summary *inter partes* proceedings so as to prevent or put an end to a trade secret infringement.

The Decree also inserts the procedure rules to be applied when the judge deals with a request for the protection of trade secrets with regard to the communication or the production of an exhibit and when he decides, for the same purpose of protecting the secret, to adapt his decision's *ratio decidendi* or the conditions of its publication.

France – Entry into force of the Decree no. 2018-1200 of 20 December 2018 related to the exception to copyright, related rights and database producers' rights for the benefit of disabled people

Implementing Articles [L.122-5 7°](#), [L. 122-5-1](#) and [L.122-5-2](#) of the French Intellectual Property Code as resulting from the [Law no 2018-771 of 5 September 2018](#), the Decree no 2018-1200 of 20 December 2018 related to the exception to copyright, to related rights and to database producers for the benefit of people with a disability, drops the prior authorisation framework which applied to organizations and to institutions aiming at receiving and offering adequate documentation to a charity established in another state (see [Legal and Regulatory Updates – October 2018](#)).

Those organizations and institutions will from now on be able to exercise their activities as long as they are recorded on the dedicated list mentioned at [Article L.122-5 1° of the French Intellectual Property Code](#).

Furthermore, the short brief attached to the Decree aims at lightening the registration procedure to be recorded on the abovementioned

list.

France - Approval of the Law related to fake news by the Constitutional Council

The Constitutional Council ruled upon the [Regular Law no 2018-1202 of 22 December 2018 and the Organic Law no 2018-1201](#) which extends to the presidential election some of the provisions set by the Law in two decisions [no. 2018-773 DC](#) and [no. 2018-774 DC](#) dated 20 December 2018 (see [Legal and Regulatory Updates – November 2018](#)).

Regarding the Decision about the Regular Law, the Council stated that the legal provisions are proportionate and necessary to the purpose of poll transparency and enlightened information of the citizens. They are further strictly restricted to online communication services and in terms of duration.

The new powers granted to the Conseil Supérieur de l'Audiovisuel against radio or television services under the influence / control of a Foreign State have also been approved by the Council, which stated that these provisions do not harm the equality, free speech or free communication principles, as those aim at stopping fake news spreading.

At last, the notice and take down duties which the online platforms' operators have to bear in compliance with the Regular Law are not harmful to free enterprise.

The Regular Law and the Organic Law have been enacted on 22 December 2018 and published in the Official Gazette of 23 December 2018.

France - Order of 11 December 2018 defining the way of calculating the fees related to alleged counterfeiting goods

Implementing the [Decree no. 2015-427 of 15 April 2015](#) related to the temporary storage of alleged counterfeiting goods by customs, the [Order of 11 December 2018](#) defines the fees that the rights' owner would be charged with alleged counterfeiting goods are seized by customs under the terms of the EU Regulation no. 608/2013 or of the French Intellectual Property Code.

These fees regard temporary goods' storage, maintenance, transportation and destruction.

The Order comes into force on 1st January 2019.

France – Tax revision regarding assignments and licenses of intangible assets

[Article 37 of Law No. 2018-1317 of 28 December 2018 relating to 2019 budget](#) amends in particular [Article 238 of the French General Tax Code](#) (GTC). Companies automatically or optionally subject to the effective tax regime, can apply a distinct reduced rate of 10%, under certain conditions, the net income resulting from the licensing of intangible assets such as patents, utility designs, supplementary protection certificate, plant variety certificates, author right protected computer programs, and, under specific conditions, industrial manufacturing processes and inventions for which patentability has been certified by the French Industrial Property National Institute.

These provisions also apply under the same conditions to the net result resulting from the assignment of the said intangible assets where (i) they have not been purchased since less than two years and (ii) there is no dependence connection between the assignor and assignee under the terms of Article 39, 12° GTC.

The above provisions apply to accounting periods beginning on or after 1 January 2019, except those with regard to the above inventions which will enter into force later on a date defined by decree. This step is subject to the European Commission approval regarding this new regime under the EU state aids' legal framework.

France – Adoption of the provisions of the PACTE Law relating to intellectual property by the Senate

The Senate adopted most of the provisions regarding intellectual property of the [Government Bill relating to companies' growth and transformation](#) upon first reading on 5 February 2019.

Article 42 of the Government Bill grants power to Government to create by ordinance an administrative opposition procedure allowing third parties to request the revocation or rectification of French patents.

Article 42 *bis* A of the Government Bill provides that a cancellation action can be brought against French designs to the French Industrial Property National Institute (INPI) under conditions to be defined by decree. Besides, appeals of the INPI decisions have a suspensive effect. These provisions will enter into force two years after the enactment of the law.

Furthermore, under the terms of Article 42 *quinquies*, the starting point of the 5-year limitation period for civil infringement actions based on patents, trademarks, designs, plant variety certificates and trade secrets is postponed to the date when the claimant has known or should have known the last event allowing him to bring such an action.

At last, Article 42 *quinquies* provides that cancellation actions against patents, trademarks, designs and plant variety certificates are not subject to any limitation period. This provision will apply to rights in force on the date of the entry into force of the law and does not affect any final decisions.

European Union - Provisional agreement reached between the Council and the European Parliament to enhance cross-border access to online content

On 13 December 2018 the Council and the European Parliament have reached a [provisional agreement](#) upon new rules which would be implemented under the upcoming Directive aiming at offering any Member State's users an increased number of options in terms of online TV broadcasting and online radio programs from another Member State.

Both institutions agree on a key principle: the Directive shall allow broadcasters from any Member State to transmit their TV broadcasts and radio programs simultaneously and/or by means of a catch up service through Internet to users located in every EU Member States whenever they would have been granted all the appropriate economic rights in the Member State where they are mainly established. They will not have to negotiate copyright in every single Member State.

The Directive will be applicable to any radio programs, news broadcasting programs as well as broadcasting programs which the broadcaster fully makes and funds. The Commission will review the material scope of the Directive in view of extending it to further programs six years after the Directive enters into force.

The provisional agreement will have to get approval from the European Parliament and the Council before being formally enacted as a Directive.

European Union - The European Commission launches a public consultation to assess the design protection system

On 18 December 2018, the European Commission has launched a public consultation within the European Union to obtain feedbacks from various actors and beneficiaries of the design protection system. This consultation aims at assessing the current legal framework based on [Directive no 98/71/CE of 13 October 1998](#) on the legal protection of designs and [Regulation \(CE\) no 6/2002 of 12 December 2001](#) in light of the pursued goals.

Feedbacks review will then allow taking a decision upon the opportunity of revising the current framework.

The consultation is open on the institutional websites until no later than 31 March 2019.

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- **Life Sciences**

France - Publication of the Social Security Financing Act (LFSS) for 2019

The Social Security Financing Act for 2019 ([Act No. 2018-1203 of 22 December 2018](#)) was published in the Official Journal on 23 December 2018.

The LFSS for 2019 introduces changes and developments in the health products sector, including:

- the introduction of the "zero charge remainder", the objective of which is to enable insured persons to no longer bear any charge on certain medical services (such as optical, audiological or dental care);
- the strengthening of the use of generics by (1) introducing a reduction in the reimbursement of medicinal products for patients who refuse generic substitutes without medical justification and (2) introducing a justification requirement based on "objective medical criteria" in the event of the use of the term "non-substitutable" by doctors on prescriptions provided to patients;
- the definition of a "hybrid" medicinal product as being "*a speciality which does not meet the definition of a generic medicinal product because it differs from the reference speciality in terms of therapeutic indications, strength, pharmaceutical form or route of administration, or where bioequivalence to that reference speciality could not be demonstrated by bioavailability studies*";
- strengthening early access to certain innovative health products for patients, in particular by opening up the procedure of the Temporary Authorizations for Use (ATU) procedure to extensions of indications of medicinal products (the ATU procedure was previously reserved for first indications only).

- **Litigation**

France – Decree of 24 December 2018 regarding the electronic communication and the role of the public prosecutor on appeal

The [Decree n°2018-1219 of 24 December 2018](#) specifies the rules relating to electronic communication and clarifies the role of the public prosecutor on appeal.

It renews the rule according to which the digital identification made during the transmission of procedural documents to the courts of first instance and appeal is equivalent to signature. This rule applies both to the acts of court auxiliaries and of the public prosecutor.

The Decree also states that the main appeal may be lodged by both the public prosecutor and the principal public prosecutor. However, only the principal public prosecutor may receive the acts of the appellate proceedings.

France – Decree of 30 January 2019 designating the Civil Court and the Court of Appeal competent to hear actions based on Article L. 163-2 of the Electoral Code

The Article L. 163-2 of the Electoral Code establishes a summary procedure aimed at stopping the deliberate and massive dissemination of false information likely to alter the sincerity of a future election.

The [Decree n°.2019-53 of 30 January 2019](#) appoints the Paris Civil Court as the competent court to hear at first instance the summary proceedings provided for in the above mentioned Article. It follows, pursuant to Article R. 311-3 of the Code of Judicial Organization, that the Paris Court of Appeal will have jurisdiction to hear the same cases on appeal.

- **Public Law**

France – Unification of competent jurisdiction for the Olympic Games

[Decree n°2018-1249 dated 26 December 2018](#) assigning to the Paris Administrative Court of Appeal the litigation of urban planning, land-use planning and land control operations related to the Olympic and Paralympic Games of 2024, published in the OJRF dated 28 December 2018, gives competence to this court at both first and last instance on litigation related to such operations when they are required for the preparation, organization or conduct of the Olympic and Paralympic games. Administrative courts which were already hearing such cases before 1st January 2019 will rule at first and last instance on these cases.

France – Implementation of the railway reform

One ordinance and six decrees have been taken in application of [Law n°2018-515 dated 27 June 2018](#) relating to the railway reform (see [French legal and regulatory update – June 2018](#)).

[Ordinance n°2018-1135 dated 12 December 2018](#) establishing various provisions on railway infrastructure and opening to competition of the rail passenger services, published in the OJRF dated 13 December 2018, contains in particular some measures aiming to implement the opening to competition of passenger commercial and public services, respectively planned for the end of 2020 and for the end of 2023.

The six decrees, published in the OJRF between 27 and 30 December 2018, are related to the obligation to notify passenger railway services offers and to the economic balance test procedure ([Decree n°2018-1275 dated 26 December 2018](#)), to the implementation of articles L. 2121-2 and L. 2121-12 of the Transport Code ([Decree n°2018-1243 dated 26 December 2018](#)), to the committee of national railway network operators and to the network charter ([Decree n° 2018-1314 of 28 December 2018](#)), to the follow-up committees of railway connections ([Decree n°2018-1364 dated 28 December 2018](#)) and to the consultation process of the French regulatory authority for rail and road activities under the article L. 2111-10-1 of the Transport Code ([Decree n°2018-1363 dated 28 December 2018](#)).

- **Real Estate**

France – Publication of the indexes allowing an indexation of the commercial rent for the 3rd quarter of 2018

The indexes on which are based the indexation of the commercial rent keep increasing. On the 3rd quarter of 2018, the indexes were determined as follow:

- Index on the construction costs ("*Indice sur le coût de la construction*") : 1733 ;
- Index on the commercial rents ("*Indice sur les loyers commerciaux*") : 113,45 ;
- Index on the rents of tertiary activities ("*Indice sur les loyers des activités tertiaires*") : 112,74.

- **Tax**

France – Finance Act for 2019: presentation of the main measures

On 28 December 2018, the National Assembly adopted [Finance Act No. 2018-1317 for 2019](#). This text provides for several reforms that affect the taxation of enterprises.

In particular, Finance Act for 2019 updates the rules that govern the deductibility of financial expenses by companies as well as the French tax consolidation regime. The French patent box regime has also been amended by the implementation into French law of the OECD's so-called "*nexus*" approach. Finally, French MPs carried out a major overhaul of the anti-abuse rules in the French Tax Code (the "**FTC**") and the Book of Tax Procedures (the "**BTP**") in order to prevent tax fraud and evasion.

You will find the main corporate tax measures of the 2019 Finance Act described in our detailed presentation under the following link:

[Presentation: French Finance Act for 2019](#)

France – Financial expenses: the French Tax Authorities updated the maximum rate of deductible interest from a tax standpoint

The French Tax Authorities (the "**FTA**") updated their guidelines by modifying the reference rate for the twelve-month periods ending from 31 December 2018 to 30 March 2019 used to calculate the limit of deductible interest in accordance with the provisions of [Article 39, 1-3° of the FTC](#).

As a reminder, Article 39, 1-3° of the FTC applies to interest payments made by a company to its shareholders in consideration for the sums they make available to such company.

The maximum deductible rates for this period are respectively 1,47%, 1,46% and 1,44% for fiscal years ended (i) between 31 December 2018 and 30 January 2019, (ii) between 31 January 2019 and 27 February 2019, and (iii) between 28 February 2019 and 30 March 2019 ([BOI-BIC-CHG-50-50-30-20190123, n°40](#)).

France – Financial transaction tax: the French Tax Authorities updated the list of French companies with a market capitalization exceeding EUR 1 billion as at 1 December 2018

The FTA updated the list of French companies whose securities fall within the scope of the financial transaction tax, which is provided for

by [Article 235 ter ZD of the FTC](#), for the year 2019 ([BOI-ANNX-000467-20181217](#)).

As a reminder, the provisions of Article 235 ter ZD of the FTC provide that this tax applies, under certain conditions, to acquisitions of an equity security, or an assimilated equity security, when the transferred equity security is admitted to trading on a French, European or foreign regulated market and its acquisition gives rise to a transfer of ownership.

The tax is due, at the rate of 0.3%, only when the transferred security was issued by a company whose head office is located in France and whose market capitalization exceeds EUR 1 billion on December 1st of the year preceding the year of taxation. The update of the FTA's guidelines therefore allows determining the scope of the financial transaction tax for the coming year.

France – French tax regime applicable to mergers, demergers and partial contributions of assets: update of the French Tax Authorities' guidelines on administrative rulings for reorganizations operations purposes

The FTA updated their guidelines with respect to the deliverance of administrative rulings in the framework of reorganizations operations so as to take into account the amendments provided by [Article 23 of the first French Amending Finance Act for 2017 No. 2017-1775 dated 28 December 2017](#).

As a reminder, the first French Amending Finance Act for 2017 provided for several changes to the French specific tax regime applicable to reorganisation operations (mergers and similar operations). In particular, the prior administrative ruling procedure, provided for transnational reorganisation operations carried out to the benefit of foreign legal persons, has been repealed ([Article 210 C of the CGI](#)).

The scope of the prior administrative ruling procedure has been limited but remains applicable, even today, to transactions involving partial contributions of assets and demergers that do not involve the transfer of a complete branch of activity or elements treated as a complete branch of activity, so as to benefit from the application of the French specific tax regime ([Article 210 B of the CGI](#)).

European Union – VAT: adjustments to VAT rules on intra-Community transactions

An [EU/2018/1910 directive](#) and two regulations [EU/2018/1912](#) and [EU/2018/1909](#) dated 4 December 2018 provided for several adjustments to the European Union VAT rules in order to solve several problems encountered by Member States and specific to intra-Community transactions.

Several of these amendments concern the conditions under which intra-Community supplies of goods may be exempt from VAT. In particular, the identification of the purchaser for VAT purposes and the communication by the latter of his VAT identification number will now be mandatory, as will the filing of the summary statement of intra-Community transactions (in France, the so-called "DEB" form). The above-mentioned texts also aim to rationalize the rules on evidence of the transfer of goods from one Member-State to another, again in order to benefit from the VAT exemption on these supplies.

Other measures concern, in particular, the rules applicable to "chain sales" operations and those relating to consignment sales operations. These changes must be implemented by Member States by 31 December 2019 for application as from 1 January 2020.

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