Doing business in France

2016

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Contents

Introduction

This guide to doing business in France will provide foreign investors with an insight into the key aspects of undertaking business and investing in France.

France is the second largest economy in the Eurozone after Germany; the country has a highly skilled workforce and a sophisticated and well maintained industrial infrastructure. France's more important sectors include motor vehicles, pharmaceuticals, transport equipment and aerospace, as well as services. As with other European countries, the agricultural sector's economic share has fallen over the last decades. With over 84 million foreign tourists per year, France is the most visited country in the world and maintains the third largest income in the world from tourism.

France's economy has grown at a moderate pace in 2015, with projections of 1.1 per cent for the full year. Growth is projected to rise to 1.3 per cent in 2016 and 1.6 per cent in 2017. This growth will primarily be due to lower oil prices, less fiscal contraction and the cumulative effects of sustained monetary policy.

Although certain declarations and permits are necessary, there are practically no restrictions on foreign investment in France. In the last few years, the country has adopted various measures to increase its competitiveness for foreign investors. Some of the main changes the French government has introduced are: a reduction of labour costs and an increase in the flexibility of the labour market and a greater promotion of Research, Development and Innovation by consolidating the research tax credits.

While this guide makes reference to some of the most common issues investors might face, it must be noted that certain industries, such as the financial services sector, are subject to special regulation and therefore companies wishing to invest in this area should seek legal advice.

The information in this publication is current at January 2016.

Country profile

Capital City	Paris
Area	640,679sq km
Population	64.2 million (excluding overseas regions)
Language	French
Currency	Euro
International dialling code	+ 33
National Holidays 2016	1 January – New Year's Day 28 March – Easter Monday 1 May – Labour Day 5 May – Ascension day 8 May – 1945 Victory day 16 May – Whit Monday 14 July – Bastille day 15 August – Assumption of Mary 1 November – All Saints' day 11 November – Remembrance day 25 December – Christmas day
Business and Banking hours	10:00 to 17:00
Stock exchanges	Paris Stock Exchange
Political structure	Republic
Doing Business rank 2016	27

Ease of Doing Business

Topics	2016 rank	2015 rank	Change in rank
Starting a business	32	27	-5
Licenses and Permits	40	39	-1
Getting Electricity	20	22	2
Registering property	85	82	-3
Financing	79	71	-8
Protecting Investors	29	27	-2
Paying Taxes	87	105	18
Trading Across Borders	1	1	No change
Enforcing Contracts	14	12	-2
Resolving Insolvency	24	22	-2

Source: World Bank Group (Doing Business)

Legal overview

Political and legal system
France is a constitutional republic. The Constitution of the Fifth Republic entered into force in 1958. The country is governed by a two-head executive: the President, elected for five years, and the Prime Minister, appointed by the President. Compared to other western democracies, the powers of the President are extensive.

The President is the head of state and the Prime Minister is the head of the executive; in 2008, the number of terms a president can serve was limited to two. The President's main role is to ensure the regular functioning of the administration and the continuity of the state. As stated above, he also nominates the Prime Minister; in addition, he presides over the cabinet, commands the armed forces and concludes treaties. He has the power to dissolve the National Assembly and in case of emergency he is entitled to assume full powers.

The Prime Minister is the head of the cabinet and the nominal head of government. In theory, he is entitled to choose the ministers; however, unless the President and the Prime Minister are from different political parties, they work together to form the government. The Prime Minister has more powers when he and the President are from rival political parties; this situation, known as 'cohabitation', normally complicates the division of powers.

The legislative branch is formed by the National Assembly and the Senate. The former is the main legislative body; its members, the 'députés', are elected by universal suffrage every five years. Senators are elected by indirect suffrage (mainly by mayors and other locally elected representatives) for six years and renewed by half every three years.

The French judicial system is independent and its powers apply to the whole territory. It is formed by two sets of independent court systems: an administrative system and a judicial system. France also has a Constitutional Council which examines laws and decides whether they are constitutional.

The administrative system has jurisdiction over administrative law and cases where the public administration is involved. On the other hand, the judicial system deals with civil, criminal and commercial matters.

France has a system of 'Civil Law', based on codes of laws. French law can be divided into two categories: private law, which governs relationship between individuals, and public law, which defines the structure of the government and governs its relationships with individuals.

Data protection

In France, data protection is mainly regulated by the Data Protection Act (DPA), which implemented the Data Protection Directive (95/46/EC). There are other data protection regulations that apply to different sectors:

- The Public Health Code
- The Monetary and Financial Code
- The Postal and Electronics Communications Code

The French DPA applies to the processing of personal data where the data controller:

- Carries out its activity on French territory within an establishment (independently of its legal form)
- Uses means of processing located on French territory even if the controller is not located in France or the European Union (EU)

The DPA defines personal data as: "any information relating to a natural person who is or can be identified, directly or indirectly, by reference to an identification number or to one or more factors specific to him. In order to determine whether a person is identifiable, all the means that the data controller or any other person uses or may have access to should be taken into consideration".

Processing data is defined as "any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction".

The French data protection authority is the CNIL *('Commission Nationale de L'Informatique et des Libertés')*. Data controllers must comply with Article 6 of the Data Protection Act and ensure that all personal data collected is:

- Processed fairly and lawfully
- Collected for specific, explicit and legitimate purposes (and processed according to those purposes)
- Adequate, relevant and non-excessive in view of the purposes for which it is collected
- Accurate, comprehensive and kept up to date

As a general rule, data cannot be processed unless the data processor has received consent from the data subject. This consent

can be implied except when the data to be processed is sensitive. Sensitive data is that which relates to a person's race or ethnic origin, political opinions or associations, religious or philosophical believes, union membership, sexual preference, criminal record or health or genetic information.

The data controller must take all precautions with respect to the nature of the data and the risk presented by the processing to preserve the security of the data and prevent the alteration, corruption or access by unauthorised third parties. The CNIL has issued various recommendations to ensure data security.

Violation of the data protection rules can result in fines of up to EUR150,000 for a first violation and fines of up to EUR300,000 for a second violation within five years. For legal entities, the CNIL can impose fines of up to five per cent of the turnover (with a limit of EUR300,000) and/or a criminal fine of up to EUR300,000 (EUR1.5 million for corporates), and/ or up to five years' imprisonment. These fines are greater under the draft Data Protection regulation.

The European Commission has adopted in April 2016 the reform of the EU Legal Framework on the Protection of Personal Data through the introduction of a new Data Protection Regulation ("the Regulation"). The Regulation will apply uniformly throughout individual EU Member States without the requirement for any national implementing legislation to give it legal effect; this is set to harmonise data protection laws across the EU. The implementation date will be on May 2018.

Money laundering regulations

Money laundering and terrorist financing acts are unlawful in France; mandatory reporting requirements apply to many financial sector professionals. The three French authorities with supervision powers are:

- The Prudential Control and Resolution Authority (ACPR): is responsible for the stability of the financial system and the protection of banking and insurance customers
- The National Enforcement Commission: monitors other independent professionals (such as real estate professionals, casino managers and persons operating tax-related domiciliation services) to ensure they comply with anti-money laundering and anti-terrorist financing rules
- The French Ministry of Foreign Affairs is responsible for financial and trade sanctions. These sanctions, normally proposed by the UN Security Council Resolutions, and adopted by EU regulations, are implemented by the French Ministry of Economics and Finance

The following individuals and organisations that effect, control and counsel on operations resulting in movement of capital must make certain declarations to the Ministry of Economics and Finance service against money laundering:

- Banks and credit institutions
- Insurance companies
- Investment companies
- Building agents
- Casino managers
- Auditors and accountants
- Counsellors in participatory investments
- Physical legal persons who provide assistance with operations related to property belonging to other people including contracts relating to the use of buildings

Declarations must be made when they are concerned that the sums may come from offences that are punishable by prison sentences or when they suspect the sums come from tax fraud.

The Ministry of Economics and Finance service against money laundering (TRACFIN) is the entity that receives and analyses information about suspicious activity relating to money laundering and terrorist financing.

Intellectual Property Rights

France is a party to the main international conventions governing the protection of Intellectual Property Rights. The National Industrial Property Institute (INPI) is responsible for the applications of all types of industrial property protection (ie Patents, Trademarks and Designs). Additionally, international protection or protection in the European Union can be obtained for patents, trademarks and designs. These applications can be managed through the INPI or EUIPO.

COPYRIGHT	
Copyright can protect: literary work, dramatic works, musical works, artistic works, layouts and typographical arrangements, recordings and broadcasts. Copyright protection confers both patrimonial rights (they give the author the exclusive right to exploit his work or to authorise other to do it) and moral rights.	
Protection granted	Copyright is granted to original eligible work automatically upon creation irrespective of registration.
Enforcement	The copyright owner can bring actions for infringement either before a civil court (to seek damages and/or an injunction against the infringer) or before a criminal court (where bad faith is generally presumed and the sanctions are up to three years of imprisonment and a EUR300,000 fine). In case of infringement relating to dangerous goods or goods issued from criminal networks, sanctions are up to five years of imprisonment and a EUR500,000 fine.
Duration	Protection is granted throughout the life of the owner, and 70 years after his death.

PATENTS	
Patents protect inventions which can be applied in an industrial environment. For a patent to be granted, the invention must be new, have an inventive step which is not obvious to someone with experience in the subject and capable of being used in some kind of industry. A patent is obtained on a 'first to file basis'.	
Registration	Applications for patent registration must be filed with the INPI. Third parties can submit objections within three months from the date of publication of the preliminary search report relating to a patent application.
Enforcement	The patent owner can bring actions for infringement either before a civil court to seek damages or an injunction against an infringer, or before a criminal court. If the patent owner starts an action before a penal court, bad faith must be proved. There are sanctions of up to three years of imprisonment and a EUR300,000 fine.
Duration	Protection lasts for 20 years from the date of filing the patent application. Patents cannot be extended (except for pharmaceutical patents).

TRADE MARKS

A trade mark must be a sign capable of distinguishing goods and services of one undertaking from those of another undertaking. Those signs can be: words, personal names, designs, letters, numeral slogans, sounds, smells, signs and distinctive colours. The trade mark must be distinctive and not deceptive.

Protection granted	The owner can obtain protection in France by registering the trade mark at the INPI. Registration provides the owner with exclusive use over the trade mark.
Infringements	The trade mark owner can bring actions for infringement either before a civil court (to seek damages and/or an injunction against the infringer) or before a criminal court (where bad faith is generally presumed and the sanctions are up to three years of imprisonment and a EUR300,000 fine and the sanctions are up to four years of imprisonment and a EUR400,000 fine in case of import or export of goods presented under an infringing mark). However, only the Paris Court of First Instance has jurisdiction to rule on EU trade mark cases.
Duration	Ten years, registration can be renewed indefinitely. A trade mark can be revoked if its owner has not used it for an uninterrupted period of five years without a justifiable reason.

DESIGNS

An industrial design, the external appearance of a product embodied in three dimension configurations, lines, colours or a combination of the aforementioned element, can be protected if it is new and has an individual character.

Protection granted	Protection is granted to a design if is new and has an individual character. Additionally, a registered design may also be protected by copyright if it is original. Unregistered designs receive the same protection as copyright.
Enforcement	The design owner can bring actions for infringement before a limited number of High Courts, either before a civil court (to seek damages and/or an injunction against the infringer) or before a criminal court (where bad faith is generally presumed and the sanctions are up to three years of imprisonment and a EUR300,000 fine). However, only the Paris High Court has jurisdiction to rule on community design cases. For unregistered designs, the right holder can bring an action either before civil or criminal courts against deliberate copying.
Duration	Protection lasts for five years from the date of the filing of the application and is renewable for five-year periods up to a maximum of 25 years.

The sanctions mentioned in the above tables (Copyright, Patent, Trade Marks, Designs) are applicable to natural persons. According to Article 131-38 of the French criminal code: *"The maximum amount of a fine applicable to legal persons is five times that which is applicable to natural persons by the law sanctioning the offence. Where this is an offence for which no provision is made for a fine to be paid by natural persons, the fine incurred by legal persons is EUR1,000,000".*

Conducting business in France

Any foreign company or individual wanting to do business in France will need to decide under which form they want to operate. The selection of the legal structure will affect the company's legal status, tax position, assets and employment relations. In the last few years formalities for setting up a business have been significantly simplified; everything can now be done online. The Business Formalities Centre (BFC) provides a one-stop service for companies wishing to establish a business. All documents needed to set up, change or close a company can be filed with the BFC, which in turns delivers them to the relevant authorities:

- The French Office for National Statistics (INSEE) which provides the company registration number named SIRET
- The French Tax Administration (FTA) and the URSSAF which collects social security contributions
- The Trade and Companies Register of the Commercial Court, which will issue the 'K-Bis' registration certificate. The K-Bis is the document that certifies the legal existence of a company trading in France. It normally outlines the characteristics of the company and provides information relating to its administration

The various forms of business available in France are described below.

Liaison office

It is possible for a foreign company to have an employee in France to represent the business through a local liaison or a representative office. It must be noted that local liaisons are not separate legal entities; and therefore, the parent company needs to sign all contracts and issue all invoices. Representative offices can only carry a limited number of activities and preparatory operations such as: prospecting, advertising, providing information, storing merchandise.

Liaison offices are not considered as permanent establishments; consequently, they are only required to pay certain local taxes and social security contributions. Registration is only necessary when the local liaison has its own offices or employs several workers.

Branches and subsidiaries

Foreign companies can carry out business in France through a branch. Branches must be registered and are not restricted on the number of activities they can perform. However, branches are not separate legal entities; the parent company bears liability for its debts. As far as tax law is concerned, a branch is considered as a permanent establishment and as a result it must pay corporate tax and VAT as well as local taxes and social security charges. It is possible to convert a branch into a subsidiary.

Incorporating a subsidiary under French law has certain advantages, particularly the segregation of subsidiaries' assets from the parent company's assets. Additionally, subsidiaries can apply for government support. In order to become a separate legal entity, the subsidiary must be registered with the Companies Registrar of the Commercial Court. The founders are personally liable for the entity legal commitments during the incorporation phase.

Limited liability companies

French company law offers multiple possibilities to set up a company. Nevertheless, the forms most commonly used are limited liability companies that limit the liability of the shareholders to the amount of their contribution. There are three types of limited liability companies:

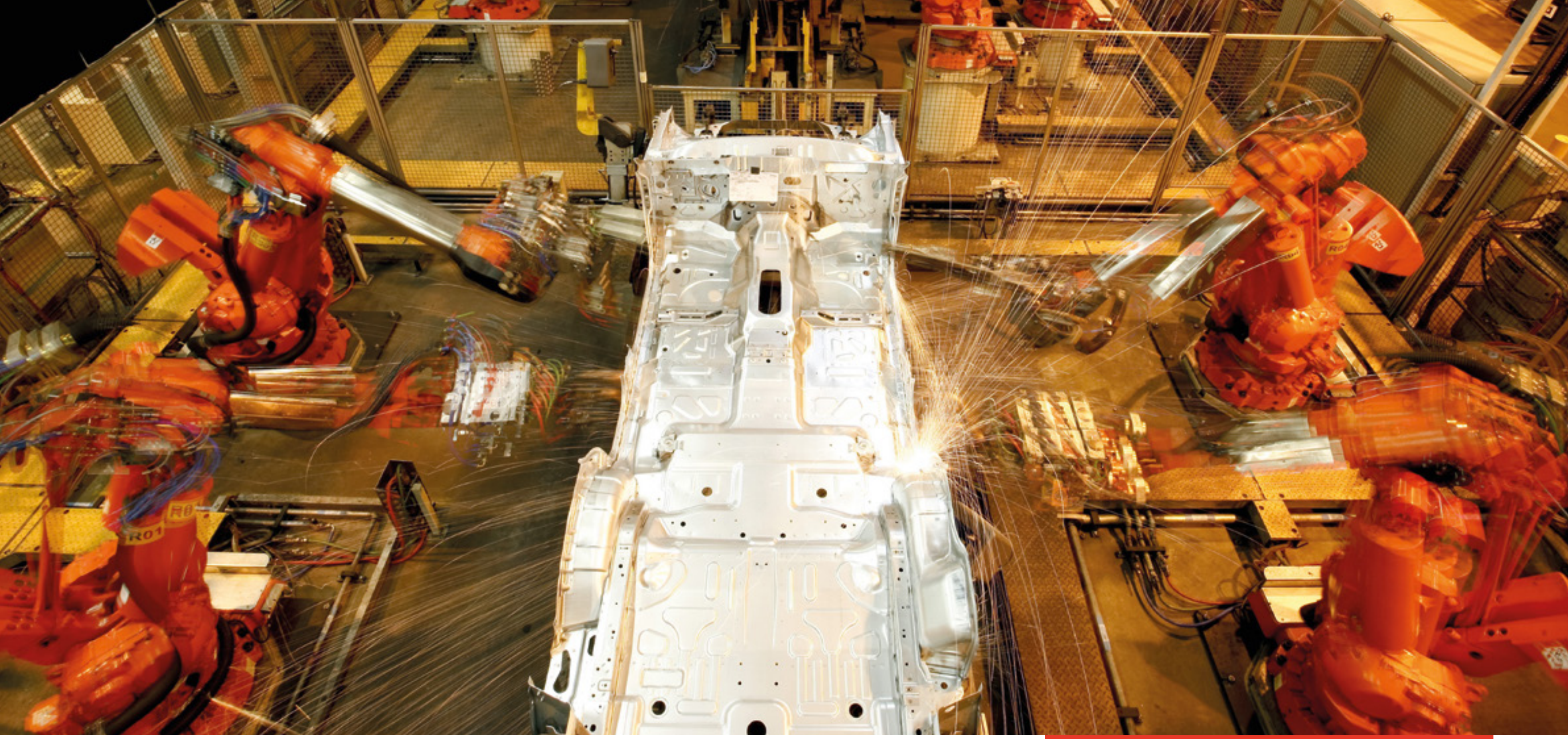
The *"Société à Responsabilité Limitée"* (SARL): it is possible to form a SARL with a limited amount of capital (EUR1 and there is no legal minimum share capital requirement. This business vehicle is normally used for small operations; it can be constituted by a sole shareholder and can have up to 100 shareholders. In a SARL, transfers of shares to third parties outside the company are not possible unless the majority of the shareholders holding at least half of the share capital give their consent.

The *"Société par Actions Simplifiée"* (SAS): The SAS is the form of business most commonly chosen for small and large businesses privately held. Its main characteristic is the wide contractual freedom. Its organisation and operations are ruled by the articles of association. Moreover, partners can decide when they want to enter or leave the company. This form of business is well suited for holding companies and foreign companies wishing to maintain 100 per cent control over their French subsidiaries. The SAS can be constituted by a sole shareholder or more. As for the SARL, there is no minimum share capital requirement. SAS cannot be listed; SAS must be transformed into a SA before any listing, which normally requires unanimous consent from all shareholders.

The *"Société Anonyme"* (SA): The SA is the most sophisticated form of business in France. It is normally used by large corporations and listed companies. SA can be managed by either a board of directors (one-tier system) or by a management committee with a supervisory board (two-tier system). The corporate governance of a SA is strictly regulated by French law: majority and quorum requirements, as well as the allocation of powers between the management and the shareholders, are legally defined and can only be modified under stringent conditions. A SA must have a minimum of two shareholders for non-listed SA and a minimum of seven shareholders for a listed SA and the minimum share capital is EUR37,000. The sum is higher for a SA listed on a stock exchange market.

	SARL	SAS	SA
Number of shareholders	One or more individuals or legal entities. A SARL with a sole shareholder is referred to as EURL. There is a maximum of 100 shareholders.	At least one shareholder. A SAS with a sole shareholder is referred to as SASU.	A minimum of two shareholders for non-listed SA and a minimum of seven shareholders for a listed SA
Minimum capital	No minimum capital (EUR1). The capital is defined by the partners in the articles of incorporation. One fifth of the contributions must be paid in cash when the company is founded and the balance over five years. Public offerings are not permitted.	No minimum capital (EUR1). The capital is defined by the shareholders in the articles of incorporation. Fifty per cent of the contributions must be paid in cash when the company is founded and the balance over five years. Public offerings are not permitted.	Minimum capital of EUR37,000. Fifty per cent of the capital must be paid upon constitution and the balance over five years. Public offerings are permitted.
Management bodies	One or more managing directors can represent the SARL. They cannot be legal entities but they do not need to be shareholders. The Commercial Code specifies their powers and the conditions of their appointment. The appointment and dismissal of the managing directors are decided by partners having more than half of the shares.	Defined in the articles of association with at least one Chairman who represents the SAS. The way to appoint and dismiss the managers is defined in the articles of association.	A SA has either a Board of Directors or a Supervisory Board and an Executive Board. The Board of Directors can have between three and 18 members (individuals or legal entities) appointed and dismissed by a shareholders’ meeting. In this case, the CEO and the deputy CEOs (maximum five) are the legal representatives of the SA. The Supervisory Board can have between three and 18 members (individuals or legal entities) appointed and dismissed by a shareholders’ meeting. The Executive Board can have a maximum of five members (only individuals) appointed and dismissed by the Supervisory Board. In this case, the President of the Executive Board is the legal representative of the SA.

	SARL	SAS	SA
Quorum for meetings and blocking minority	Extraordinary General Meeting: 25 per cent of voting rights at first notice; 20 per cent on second notice. The blocking minority must have 33 per cent plus one vote. Ordinary General Meeting: the blocking minority must have 50 per cent of voting rights plus one.	As defined by the articles of association.	Extraordinary General Meeting: 25 per cent of voting rights at first notice; 20 per cent on second notice. The blocking minority must have a third plus one of the votes Ordinary General Meeting: 20 per cent at first notice; no quorum on second notice. The blocking minority must have 50 per cent of the votes.
Transfer of shares	The transfer of shares to third parties outside the company is subject to the prior approval of other shareholders. The transfer of shares between shareholders, between spouses, or between ascendants and descendants is in principle free unless the constitution of the SARL provides otherwise.	The procedure to be followed for the transfer of shares is described in the articles of association.	For a non-listed SA, the transfer of shares can be subject to the prior approval of a corporate body.
Statutory Auditors	Auditors are necessary for the following year if two of these three criteria are exceeded at one year end: • Net turnover over EUR3.1 million • Total balance sheet over EUR1.55 million • More than 50 employees	Statutory Auditors are required if the company controls or is controlled by another company or if two of these three criteria are exceeded: • Net turnover over EUR2 million • Total balance sheet over EUR1 million • More than 20 employees	Statutory auditors are always required.
Approval of accounts and financial statements	Financial statements must be approved within six months after the end of the financial year. The filing of annual accounts and the yearly statutory auditors' report is mandatory.	Financial statements must be approved within six months after the end of the financial year. The filing of annual accounts and the yearly statutory auditors' report is mandatory.	Financial statements must be approved within six months after the end of the financial year. The filing of annual accounts and the yearly statutory auditors' report is mandatory



Other legal entities

Partnerships

In France there are various forms of partnership. Although they are not as commonly used due to the high level of partner liability, they have some advantages. For instance, there are no minimum capital requirements, they offer significant flexibility in terms of decision making and they are a transparent vehicle for investors' taxation: each partner is taxed directly. The most common forms of partnership are:

The *"Société en Nom Collectif"* (SNC): it is the general commercial partnership. Its members are jointly and severally liable without limitations for the debts of the company. The transfer of shares or any collective decision requires the agreement of all partners. The death of one of the parties automatically leads to the dissolution of the company unless the Articles of Association provide for something different.

The *"Société en Commandite Simple"* (SCS): it is a limited partnership with two types of partners; general partners responsible for the company's management and investors. The formers are unlimited, jointly and severally liable. The liability of the latter is limited to the amount of their contributions.

The *"Société Civile"* (SC): this type of partnership is governed by the French Civil Code (and not by the French Commercial Code) and subject to personal income, except when it opts for the corporate taxation. The partners are also jointly and severally liable.

The Economic Interest Grouping (EIG): it is an instrument of cooperation between existing companies; its main objective is to contribute to the development of its members and improve their revenue. An EIG must have a minimum of two members and can be set up with or without capital. Common decisions must be taken during meetings and it has a transparent tax system with income tax.

The European Public Company *"Societas Europaea"* (SE)

Only businesses present in at least two EU Member States with a two year operating history can opt for the European Company status. This type of company can be created by registration in any EU country; Member States must treat an SE as if it were a public limited company formed in accordance with the laws of the Member State where the registered office is located.

SEs are subject to EU rules relating to share capital (they must have a minimum of EUR120,000), internal regulation, accounts and worker participation. Other crucial aspects of the functioning of the company, such as tax and insolvency, are regulated by national corporate laws.

Only businesses present in at least two EU Member States with a two year operating history can opt for the European Company status.

Tax system

Tax administration is controlled by General Administration of Public Finances, which operates under the Ministry of Finance. Foreign investors are likely to be affected by the following taxes:

- Corporate Income Tax
- Value Added Tax
- Personal Income Tax

Corporate Income Tax (CIT)

Scope and rates

Taxation in France is based on a territorial principle. Companies must pay French Corporate Income Tax on the profits of any business carried on in France. An entity is considered to be carrying business in France when it has a permanent establishment, a dependent agent or operates a 'full commercial cycle' in France. Foreign source income of French residents is generally not subject to French tax and foreign losses may not be deducted but some exceptions exist (eg: tax avoidance rules contained in article 209 B of the French Tax Code: income earned by a French company through a foreign company may be taxed in France if such income is subject to an effective tax rate that is 50 per cent lower than the French effective tax rate on similar income). The general corporate tax rate is 33.33 per cent; however, there are some special rates:

- SMEs with a turnover under EUR7,630,000 pay a 15 per cent rate for the first EUR38,120 tax income; the rest is taxed at the normal 33.33 per cent rate. The reduced rate is only applicable if at least 75 per cent of the company is owned by individuals or by companies that satisfy the above conditions
- Companies with a turnover exceeding EUR7,630,000 must pay an additional 3.3 per cent tax. Members of consolidated groups must take into account their global turnover to determine whether they are within the threshold
- As a result, the effective corporate tax rate is 34.43 per cent for these companies and groups
- These two contributions cannot be deducted from the taxable result of the company

Taxable income

Taxable income is determined on the basis of the French GAAP accounting results. When tax results and accounting principles present divergences, the accounting results are adjusted.

Business profits are defined as gross trading profits less manufacturing, administrative and selling expenses. Expenses incurred in the conduct of business are deductible if they are used to achieve the corporate purpose of the company.

Administration

Taxpayers subject to CIT are obliged to file tax return within three months following the end of their financial year (companies are free to have a fiscal year different from the calendar year). CIT is prepaid in four instalments. For companies whose financial year ends on 31 December, CIT must be paid in instalments on 15 March, 15 June, 15 September and 15 December. The balance is due on 15 May of the following year. The same rules apply to the payment of the 3.3 per cent surtax.

Late completion of the tax return and late payment of the amount due are subject to a 10 per cent penalty. Moreover, if additional tax is due as a result of a tax reassessment, companies are charged an interest of 0.4 per cent per month (4.8 per cent per year).

Capital gains

1. Capital gains derived from the sale of fixed assets by French companies are subject to corporate income tax at the standard rate of 33.33 per cent or of 34.43 per cent.

2. A reduced 15 per cent rate applies to the following categories:

- Income from the licensing of patents or patentable rights
- Capital gains derived from the patents or patentable rights held for at least two years
- Capital gains derived from sales of shares in venture mutual funds and venture investment companies (as long as the shares have been held for at least five years)

Long-term capital losses derived from one of the categories qualifying for the 15 per cent tax rate can only be offset against long-term capital gains corresponding to the same category.

Gross capital gains derived from the sale of qualifying participations (at least five per cent of the capital held + two years of holding) are taxed for only 12 per cent of their amount. As a result, the effective tax rate on such gains is four per cent. Capital losses incurred in qualifying participations are not deductible and cannot be offset against capital gains.

To be noted that provisions on long term capital and qualifying participations are not tax deductible.

Capital gains derived from sales of participating interest in listed real-estate companies are taxed at 19 per cent.

Groups

When a French company holds directly or indirectly at least 95 per cent of the shares of one or more French companies, the group can select to be taxed as a single entity. Profits and losses of the group of companies can be offset.

1 General limitation

Under French tax rules, the deduction of net financial expenses incurred during a fiscal year is limited to 75 per cent of their total. Financial expenses or income are any amounts that are accrued in remuneration for funds put at the disposal of the company (or another party). For a tax-consolidated group, the interest cap applies to the net financial expenses of the tax group (excluding intercompany transactions). The rule doesn't apply if the net financial expenses incurred by the company or by the tax group during a fiscal year are below EUR3 million.

2 Interest deduction

a Thin capitalisation rules

Exceptions apply when the lender and the borrower are related parties.

Under thin capitalisation rules (section 212 of the French Tax Code), related-party interest is deductible if it meets both the arm's length test and a thin capitalisation test. The thin capitalisation rules are also applicable to interest paid to third parties on the portion of debt guaranteed by a related party, under certain conditions.

Under thin capitalisation rules, interest paid above one of the following thresholds cannot be deducted:

- If the average amount of related party loans exceeds 1.5 times the net equity of the borrowing entity
- If the interest paid on related party loans exceeds 25 per cent of the borrowing entity net income before tax
- If the interest paid on related party loans exceeds the interest received by the borrowing entity on loans it has itself granted to related parties

The portion of interest that exceeds the highest of the above thresholds cannot be deducted unless the excess amount is lower than EUR150,000. The non-deductible part of the interest can be carried forward for deduction in the following financial years.

For tax-consolidated groups, interest non-deductible under thin capitalisation rules cannot be carried forward by the company that incurred the excess interest; it can only be carried forward by the head of the tax group.

b Maximum interest rate

Also for loans granted by minority direct shareholders a maximum interest rate applies annually to determine the deductibility of the interest charge computed at the level of the borrowing subsidiary (section 39-1-3 of the French Tax Code). The following interest charge is not deductible: difference between the interest computed with the applicable rate and the interest computed with the maximum interest rate.

c Hybrid mechanism

Under French tax rules, interest deduction as regards loans between related parties is allowed only if the French borrower demonstrates that the intra-group lender is subject to a corporate tax on the interest income that equals 25 per cent or more of the corporate tax that would be due under French tax rules.

Where the lender is established outside of France, the corporate tax determined under French law would equal the tax liability that the intra-group lender would have owned on the interest had

Under French tax rules, the deduction of net financial expenses incurred during a fiscal year is limited to 75 per cent of their total.

it been resident in France. Taking into account a French corporate income tax rate of 34.43 per cent for financial year 2016, the taxation of interest at the level of the intra-group lender needs to be superior to 8.6 per cent.

The minimum level of taxation should be regarded at the level of the partners which are effectively taxed on the income.

d Other limitations
Other limitations exist and must be checked on a case by case basis as they are quite complex and technical (Carrez and Charasse disposals).

Losses

Losses can be carried forward but are subject to a limit: in one year, the maximum amount that can be utilised is EUR1,000,000 plus 50 per cent of the taxable profit above that amount for such fiscal year.

Companies can carry back losses against undistributed profits from the prior fiscal year only up to EUR1,000,000. Losses carried back result in a credit that can be used to reduce corporate income tax payable during the following five years. The balance is refunded at the end of the fifth year.

Carrying losses back or forward may not be possible if the company makes a significant change in its activity that entails an addition or termination of business-like decrease or increase of income or assets or employees (it should be analysed).

Dividend income

Dividends are taxed at a normal rate unless the 'parent-subsidiary' regime applies. Under the parent-subsidiary regime, dividends received by French companies or French branches are exempt from corporate tax income (except for a five per cent charge computed on the gross dividend income). This regime only applies if the recipient holds at least five per cent of the share capital of the distributing company that the parent commits to hold for two years or effectively holds for two years. Dividends received from a subsidiary established in an 'uncooperative' country are excluded from this regime.

A three per cent surtax is levied on dividend distributions and deemed dividends paid by French entities subject to corporate income tax but some exemptions exist (distributions within a same tax group for instance).

Withholding tax

French withholding tax is charged on the following types of income:

Dividends: 30 per cent withholding tax is imposed on dividends paid to non-residents (this tax can be reduced or eliminated by tax treaties). Moreover, under the EU Parent-Subsidiary Directive, dividends distributed by French subsidiaries to EU parent companies are exempt from withholding tax if the recipient holds at least 10 per cent or more of the shares of the French subsidiary for at least two years. The withholding tax rate increases to 55 per cent for profits paid on bank accounts located in uncooperative states

Royalties: a 33.33 per cent withholding tax is imposed on royalties and other fees paid to non-residents (however treaties can reduce or eliminate that withholding tax)

Branches of non-resident companies: 30 per cent withholding on after-tax income. This tax rate does not apply to French branches of companies resident in an EU Member State or, since 1 January 2016 in the European Economic Area, when they are subject to corporate tax income in their home country. Additionally, the rate may be reduced by tax treaties

Transfer pricing

Related party transactions must be conducted at arm's length conditions and must comply with the transfer pricing rules and documentation requirements. Article 57 of the French tax code contains the main French legal provisions on transfer pricing. It states that, in assessing the income tax due from French taxable entities that are mothers, sisters or subsidiaries of entities established outside France, any profits indirectly transferred to the latter, shall be added back to taxable income.

France transfer pricing rules endorsed the revised Organisation for Economic Co-operation and Development (OECD) transfer pricing guidelines including BEPS rules (Base Erosion Profit Shifting) that should be also implemented in the future).

There are two different transfer pricing requirements, one for large MNEs and another one for SMEs (detailed criteria exist to define such companies).

MNEs will have to comply with two transfer pricing requirements:

- So-called "simplified documentation": to be provided to the Tax Administration within six months following the filling of the tax return
- "full documentation" to be provided during a tax audit upon request from the tax auditor

Specific additional documentation must be provided in case of transactions entered into with affiliate entities located in 'non-cooperative states'.

As part of the 2016 Finance Bill, the head of the group is obliged to

provide the documentation for all the companies of the group.

Tax incentives

France has one of the best Research and Development (R&D) tax incentives in the world.

R&D incentives for SME

Businesses qualified as a 'Young Innovative company' (YIC) benefit from:

- A full year exemption of CIT for the first fiscal year at profit, and a 50 per cent exemption the following year
- An exemption of social security charges for seven years under certain conditions

Additionally, the innovation tax credit for SME allows the offsetting of a tax credit against CIT equal to 20 per cent of innovation expenses limited to EUR400 000 per year (the maximum tax credit a company can obtain per year is EUR80,000).

R&D tax credits for other companies

The R&D tax credit allows offsetting a tax credit against CIT equal to 30 per cent of R&D expenses above EUR100 million and five per cent of the portion of expenses exceeding EUR100 million.

- If the company has not offset the R&D tax credit against CIT, it can obtain a reimbursement in cash if after three fiscal years the tax credit cannot be offset against CIT. The remaining amount is reimbursed to the company by French Tax Authorities.
- In case, the company does not want to wait for three years, a bank can pay the R&D tax credit receivable, and ask for a reimbursement to the French Tax Authorities after three years.

YIC and SME can obtain the refund immediately.

R&D expenses can be:

- Depreciation deductible from fixed assets
- Wages (including social security charges) paid to engineers doing research
- Operating expenditures
- Costs related to subcontracted research

Personal Income Tax (PIT)

Individuals liable to French Income Tax

In France, personal income tax is based on tax residency. An individual is considered as a French tax resident if his/her household, principal place of abode, professional activity or centre of economic interest is located in France. French tax residents must declare their worldwide income, while non-residents are only taxed on their French-source of income.

Income tax is determined by assessing the combined income of the members of the tax household. France has a regime of joint taxation for married couples and couples that have contracted a civil partnership. There are no options to file separately (except where noted).

Taxable income

The French taxable income includes several revenues, including:

- Salaries
- Professional and personal income
- Pensions
- Financial investment income
- Rental income
- Capital gains

To calculate the net taxable income allowances, deductions and treaty provisions must be applied. The following deductions and credits are allowed (subject to certain conditions):

- Tax payers may either deduct 10 per cent of their net employment income (the deduction is limited to an amount set by the tax authorities, updated annually) as flat allowance for professional expenses without providing proof of expenditure or they can deduct actual professional expenses by providing proof of expenditure
- Tax credits are available for: investment in historical or classified real estate, expenses incurred for rental purposes and for domestic employee expenses up to EUR6,000 (except specific cases)
- Tax credit for qualifying child care expenses (outside the home) equal to 50 per cent of the amount paid, limited to EUR1,150 per child under six on 1 January of the tax year

The total benefit resulting from certain tax deductions, reductions and credits has been capped.

Tax rates – 2015

French income tax is levied at progressive rates, with a maximum rate of 45 per cent for the 2015 tax year. However, income splitting rules are applicable to combine the progressive tax rate with the tax paying capacity of the household.

Portion of taxable income (EUR) (one part)	Tax rate (%)
up to 9,700	0
9,701 to 26,791	14
26,792 to 71,826	30
71,827 to 152,108	41
more than 152,108	45

To calculate French income tax, the income of the tax household must be summed and then divided by the number of allowances. The applicable tax rate must then be applied and multiplied by the number of allowances.

Family composition	Family divisor
Single individual	1
Married couple or couple that have contracted a civil partnership	2
+1 Child	2.5
+2 Children	3
Each additional child	1

There is an additional exceptional contribution for high income on the tax reference income exceeding EUR250,000 (as in the case of a single person). The rate is three per cent from EUR250,000 to EUR500,000 and four per cent thereafter. These thresholds double if you declare income as a married couple or as a couple that has contracted a civil partnership. This additional contribution will last until the level of French public debt is reduced.

Social contributions

CSG *('Contribution Sociale Généralisée')* and CRDS *('Contribution au Remboursement de la Dette Sociale')* applies to all taxpayers French residents at a rate of eight per cent on 98.25 per cent of gross salary if it does not exceed EUR154,464 per year (in 2016) and on 100 per cent of the portion of the gross salary that exceeds EUR154,464 (in 2016). Social security taxes apply to all taxpayers French residents at a rate of 15.5 per cent on passive income and capital gains (specific cases excepted).

Income tax on dividends, bank interest and capital gains (realised by a taxpayer domiciled in France)

Income and gains from capital are in general taxed at the above band rates. Tax on dividends and bank interest and other fixed income must be deducted at source at a rate of 21 per cent and 24 per cent respectively. French banks deduct and declare these amounts for the taxpayer. Capital gains are reduced by 50 per cent for shares held for at least two years and 65 per cent if held for eight years or more (subject to certain conditions); this reduction does not apply to social contributions. Higher rebates for length of ownership are available for the sale of EEA small and medium size enterprises under certain circumstances.

In France, capital gains tax on the sale of property is currently 19 per cent plus social taxes of 15.5 per cent; nevertheless, the sale of a main residence is exempt. There are reductions for properties owned for more than five years. Additionally, real estate capital gains exceeding EUR50,000 are subject to an additional surtax varying between two and six per cent.

Tax returns

As a general rule, French residents are required to file general income tax returns by the end of May following the end of the tax year. French personal income tax is generally paid in three instalments in February, May and September. However, the taxpayer can make monthly payments with the balance payable at the end of the year.

As part of the 2016 Finance Bill, the government announced that it will introduce a withholding tax system, under which income tax will be withheld at source as from 2018. Electronic filing will be mandatory, depending on income thresholds. In 2016, only taxpayers whose reference fiscal income exceeded EUR40,000 in 2014 will be subject to the electronic filing requirement.

Other taxes

Value Added Tax

France operates a Value Added Tax system. The sale of goods or supply of services will be subject to VAT if the goods or services are consumed or used in France. The current VAT rate is 20 per cent; certain categories of goods and services are subject to a lower VAT rate.

The vendor or service provider has in principle the responsibility to report the VAT that arises out of a transaction to the tax authorities; this means that a vendor or supplier must ensure that the VAT is included in the final price. Registration is compulsory for any business unless their taxable supplies do not exceed the following thresholds:

- EUR32,900 in respect of services
- EUR82,200 in respect of goods

As part of the 2016 Finance Bill, the VAT threshold for distance selling (currently EUR100,000) is lowered to EUR35,000 from 1st January 2016.

Business entities in France are given a VAT registration number when they file the forms for their commercial registration.

These rules are also applicable to non-French entities that make operations falling in the territorial scope of French VAT. Non registration or late registration as such is not subject to penalties.

Every business liable for VAT (except small businesses taxed on an estimation system) must file a monthly VAT return; quarterly VAT returns may be filed if the total VAT payable each year does not exceed EUR4,000. Some companies benefit from seasonal filing regimes that allow them to file the return in the month when the transaction was performed.

The Contribution Economique Territoriale (CET)

The *"Contribution Economique Territoriale"* (CET) is a local tax imposed by the departmental and regional councils on business to fund local services and the Chambers of Commerce. The CET has two components:

- The *"Cotisation Foncière des Entreprises"* (CFE), based on the rentable value of the property occupied by the business
- The *"Cotisation sur la Valeur Ajoutée des Entreprises"* (CVAE), based on the value added by the business each year. The CVAE is only payable by entities with an annual pre-tax turnover exceeding EUR500,000

Sundry other taxes

Companies are due to file declarations and to pay various other taxes depending on circumstances: *"Taxes d'Apprentissage"*, *"Formation Professionnelle Continue"*, *"Taxe Véhicule Société"*, *"Contribution Sociale de Solidarité des Sociétés"*, *"Taxe sur les Bureaux"*, *"Taxe sur les Dividendes"*.

As part of the 2016 Finance Bill, the VAT threshold for distance selling (currently EUR100,000) is lowered to EUR35,000 from 1st January 2016.

Labour

In France, in addition to the employment contract the following sources govern the employment relationship:

- EU law
- The French Constitution
- The Labour Code
- Case Law
- Collective Bargaining Agreements (CBAs)

Employment contract

Employment contracts must be written in French to be enforceable. Contracts can either be for an unlimited period of time (*"Contrat à Durée Indéterminée'"* or CDI) or for a fixed period of time (*"Contrat à Durée Déterminée"*or CDD).

Fixed term contract (CDD)

A fixed term contract can only be concluded to perform a specific and temporary task in very limited cases. It must be in writing and transmitted to the employee within two days following the hiring. It must specify the definition of its reason, as well as the duration of employment if it includes a specified term or the minimal duration of employment if its term is not determined (notably in case of replacing an absent employee).

Since August 2015, a fixed-term contract with a specified term can only be renewed twice for additional fixed terms. Each time, the conditions for the renewal must be set out in the agreement or included in an amendment signed before the end of the term. A fixed term contract cannot last for longer than 18 months (or 24 months in certain cases). The contract cannot be terminated before the end of the fixed term unless both parties agree, except in the event of one of the following circumstances:

- Gross misconduct
- An act of God
- The employee is offered an indefinite term contract by a third party
- Inability of the employee recognised by the Company certified doctor

A mutual agreement between the employer and the employee.

Permanent contract

Although permanent contracts do not legally need to be in writing, except for several clauses (eg the trial period or the non-competition clause) they normally are. It must contain the employee's pay and job description as well as working hours and place of work. The contract can also provide for a trial period which can last up to four months (depending on the employee's status).

Minimum wage

The statutory national minimum wage (SMIC), which is annually reviewed, amounts to EUR9.67 per hour for 2016 (corresponding to a monthly gross salary of EUR1,466.62 for an employee working 35 hours per week).

All employees employed under an ordinary employment contract, either indefinite or fixed term, are entitled to the minimum wage. Collective bargaining agreements (CBAs) may provide for higher minimum wages depending on the business sector, the job category and the status.

Working time and leave

Working hours

In France companies have several ways to organise working hours without incurring extra payroll costs. The statutory maximum working hours are 35 per week.

Employment contracts must be written in French to be enforceable.

The executives may generally work under more flexible working time modalities which permit, in some cases, to not count overtime.

The 35-hour week is used as a reference to calculate overtime; businesses must pay 25 per cent more for the first eight overtime hours and 50 per cent thereafter. As for most employment provisions, these general rules can be altered by the collective agreement; while establishing a lower rate for overtime is possible, it must not be lower than 10 per cent. Additionally, employees must not work more than:

- An average of 44 hours a week during 12 consecutive weeks
- 48 hours during any given week
- 10 hours a day
- 220 hours of overtime a year (this limit is subject to the applicable CBA)

Working time may be reorganised at the company level (as long as employees are duly informed of their work schedule), taking into account the specificity of the business and under specific conditions.

For instance, working time can be reorganised on a multiple-week basis: employees work an average of 35 hours over four or more weeks, but their working time is different in every week. This method is particularly useful for those companies that experience a fluctuation in their level of business during the year; working hours can be increased or reduced without incurring extra costs. When making these arrangements, the limits above must be respected.

In addition, employees working extra time are entitled to receive additional days-off so called *"Réduction du Temps de Travail"* (RTT).

Shift work does not entail extra costs; nevertheless, it is only applicable in certain fields of activity and must be authorised by decree, collective or company agreement. Moreover, the maximum working time of shift workers is strictly limited and they are subject to compulsory medical supervision. According to the French Labour Code, shift work cannot exceed 35 hours per week on average during the year.

As a general rule, employees must be given a weekly day of rest lasting 24 hours on Sunday. There are some exceptions expressly provided by the law and other exceptions which must be granted by the State Prefect for a limited period (three years) based on the nature of the business, or by the Mayor for retail companies within the limit of 12 Sundays per year. Employees that work on Sunday receive extra pay and are entitled to a weekly day of rest. Law No 2015-990 reformed work on Sunday and introduced new exceptions based on the geographical localisation of some retail establishments. It concerns retail establishments located in 'international tourist areas' and retail establishments located in 'crowded stations'. In this framework, the implementation of the work on Sunday is subject to a collective agreement.

Leave

Employees in France are entitled to five weeks of paid leave in addition to public holidays. The law or specific CBAs can grant additional paid leave when employees have reached a specific length of service or for family-related issues.

The employer can refuse to let an employee take paid leave due to high workload.

Employees cannot take more than four weeks of paid leave all at once. The annual period of paid leave must include the period between 1 May and 31 October, within which the employees are entitled to take at least two weeks.

Termination of the contract of employment

For the termination of a contract of employment both parties must observe the required notice periods, as provided by the law or CBAs, except in some cases such as a dismissal for serious or gross misconduct. The employees can be exempted by the employer from performing their notice period but they will be paid for the corresponding period anyway. If they request themselves not to perform their notice period, then they will not be paid should the employer accept.

The notice period normally depends on the length of service but also on the status of the employee.

Another possibility exists to terminate an employment contract: the agreed termination ('rupture conventionnelle'). It implies that each party agrees to end the employment contract without having serious grounds against each other, and can be initiated by either the employer or the employee.

Dismissal

In France employees can be dismissed on either economic or personal grounds; employers must provide serious grounds whatever the type of dismissal and comply with the legally prescribed procedures.

Personal grounds can notably include:

- Poor performance or unsatisfactory professional skills
- Inability to perform the assigned tasks
- Non-authorised or non-justified absences
- Misconduct
- Insubordination
- Thefts

Certain groups of employees have special protection against dismissal, including:

- Pregnant women
- Employees on sick leave as a result of a work-related illness or accident
- Employee representatives (they can only be dismissed if the Labour Inspector authorises it)

Severance payments

Severance payments usually depend on the employee's length of service and the relevant provisions in CBAs. Severance pay is only awarded if the employer terminates an indefinite-term contract and the employee has the minimum length of service required by the Labour Code or the applicable CBA (normally one year).

To calculate the severance payment, the employee's average salary paid during the last year or the last three months of employment, whichever is higher, must be taken into account. Employees can either receive legal severance pay (one fifth of their monthly salary for each year of service for the first ten years of service and one third for each year above) or the amount provided for by the CBA or in the employment contract as long as they are not lower than the legal amount.

In case of dismissal for gross misconduct, which prevents the employer from retaining the employee within the company, the employee is not entitled to any severance payment (but only to the pay in lieu of holidays).

If the employee considers that his dismissal was unfair he can challenge it before the Labour Court. Judges can grant compensation for unfair dismissal; employees are entitled to a minimum of six months' pay if they have worked for the employer for more than two years and if the employer has a minimum of 11 employees, otherwise the damages are appreciated depending on the prejudice actually suffered. In some particular cases, employees have a right to reinstatement.

Redundancy

A redundancy is a dismissal due to economic grounds. Economic grounds shall not be linked to the employee as a person. A redundancy can be justified by:

- Economic difficulties facing the relevant business sector at group level
- Technological changes
- Necessary reorganisation of the company to safeguard its competitiveness
- Complete and definitive end of business of the company

Redundancy must have an impact on the position of employment, meaning it must lead to its cancellation or transformation.

Certain criteria must be taken into account when determining which employees to make redundant:

- Whether the employee has dependants
- The length of service
- Difficulties the employee may face finding new employment due to age or disability
- The employee's professional skills

Additionally, the employer must try to find another position within the company or group, locally or globally, and give the employee dismissed priority during a year if a position becomes vacant. Failure to comply with this procedure can result in unfair dismissal.

Employers must follow special procedures for collective redundancies, which will differ depending on the number of dismissals envisaged, workforce of the company and the existence of staff representatives.

For instance, in case of redundancies of more than 10 employees within a company employing more than 50 employees, the employer has to inform and consult the staff representatives and report to the Administration during the process. Moreover, a collective redundancy plan has to be set up, providing measures to encourage redeployment or retraining of employees facing redundancy. The plan must either take the form of a collective agreement signed by trade unions representatives and validated by the administration or a unilateral document approved by the administration.

Since April 2014, companies with over 1,000 employees wishing to close a site must look for buyers and inform the staff representatives before proceeding with the closure. The sanction for non-compliance can be the non-approval of the collective redundancy plan by the administration.

Employees made redundant are entitled to: severance pay, pay in lieu of notice and pay in lieu of holiday.

Agreed termination

The procedure for agreed termination is less arduous as no notice period will need to be served by the employee.

The employee and the employer meet one or two times to discuss the conditions of the termination; then an agreement is signed and sent to the Administration for its authorisation after a withdrawal period of 15 days.

The employment contract may be then terminated, at the earliest, the day after the date of the Administration's authorisation.

The employee is entitled to the same severance payments as the one allocated in case of dismissal and to unemployment allocation (contrary to the resignation).

Social security, providence, pension, unemployment and medical care

Compulsory social insurance schemes apply to all companies. Employers and employees must pay contributions equalling approximately 45 per cent on average of gross wages for employers and approximately 22 per cent for employees. The cost for employers is significantly lower on low wages and non-executives; depending on the size of the company they vary between 17 per cent and 21 per cent on behalf of employees earning the statutory minimum wage. Although contributions are relatively high, they relieve employers of their responsibilities to employees: the social security partially covers employee pay when sick or on maternity or accident leave. Additionally, through contributions to the company's career training fund, most of the costs of employee training are covered.

Companies can benefit from reduction of social security contribution under certain circumstances and criteria. The current scheme is called *"Crédit d'Impôt pour la Compétitivité et l'Emploi"*.

Maternity leave: employees receive up to 16 weeks' paid maternity leave (six weeks before the birth and ten weeks after). Maternity leave increases when the employee has more than a child and for multiple births. Employees can increase the proportion of maternity leave taken after childbirth by decreasing the leave taken before the child is born. This option requires medical approval. Following maternity leave employees have the right to return to their original position (or to a similar one with the same remuneration).

Paternity leave: male employees are granted three days' leave when the child is born; additionally, they are entitled to 11 consecutive days' leave that must be taken within four months following the birth.

During maternity leave, mothers are entitled to a daily allowance from the social security. Although employers are not obliged to pay a salary during this time, CBAs frequently state that the employee salary must be paid in full when the employee has a certain length of continuous services. Male employees are entitled to a daily allowance from the social security authorities; however, the employer does not normally maintain their remuneration during the leave unless the CBAs provides for it.

Sick leave: employees that are absent due to illness or injury must obtain a medical certificate covering the period of sick leave. The labour code provides that employee's remuneration must be maintained for a certain length of time depending on the employee's seniority and should the employee: have at least one year service with the employer, have provided a medical certificate and be covered by social security and benefits from medical care in France or another EU Member State. Most CBAs provide for a supplement to the social security payment for a certain period if the employee has a certain length of continuous service. Generally the employer substitutes the social security and pays the employee itself before receiving the corresponding payment from the social security.

Working permits

EU, EEA and Swiss nationals are free to work in France without a visa, residence permit or work permit; the only procedure they need to follow is register with the municipal office within three months upon arrival. Following the accession of Croatia to the EU in 2013, Croatian nationals need working permits until the end of the transition period in 2020.

Foreign nationals wishing to work in France for more than 90 days must apply for a long-stay visa to the French consular authorities in their country of origin. The visa holder must go to the Prefecture to complete certain administrative formalities. Alternatively, some categories of foreign nationals are issued long-stay visa equivalent to a residence permit valid for three to 12 months without having to complete any additional formalities with the Prefecture.

There are simplified procedures for students, research scientists, interns and employees with a work contract at a company based in France as well as for employees whose foreign-based company has seconded them to work in France for a period of between three to twelve months.

Immigration procedures vary depending on the type of activity being conducted by the foreign national:

- 'Skills and Expertise' residence permit: this type of permit is for foreign individuals wishing to set up or take over an existing company in France. It is valid for three years and the managing director needs to present a project that meets certain requirements, such as the investment of at least EUR300,000 or the creation of at least two jobs
- 'Exceptional Economic Contribution' residence permit: this type of permit is for foreign nationals wishing to invest in France over EUR10 million or plans to create at least 50 jobs
- 'European Union Blue Card': this permit is for highly skilled employees who have a degree and a minimum of five years of professional experience, possess an employment contract of at least one year and earn a salary worth 1.5 times the average gross salary
- 'Expatriate Employee' temporary residence permit: this three year residence permit is reserved for intra-group transfers, it can be issued for a secondment or an expatriation

Failure to comply with immigration procedures in France is a criminal offence for the employer and the employee. The Chief Executive can be sentenced to up to five years' imprisonment and a EUR15,000 fine. The company can also be made responsible for the payment of a special contribution.

Audit

Accounting standards

In France, accounting rules applicable to financial statements can be found in two sources:

- The Commercial Code
- The general and sectorial accounting prescripts issued by the French Authority for Accounting Standards(ANC)

Public companies whose shares are traded on regulated markets have to publish their accounts using the IFRS GAAP. However, published accounts must be prepared in local GAAP. Although French GAAP follows specific principles, it is evolving towards closer alignment with IFRS principles.

Accounting records must be in French, not only the names of accounts and narrative of entries, but also the method of numbering for business accounts (French Chart of Accounts). This method is in line with tax reporting requirements. Amounts have to be recorded and reported in euros.

Accounting records

All firms (companies and branches) operating in France are obliged to keep certain accounting books:

- **The Journal:** is the main book for recording transactions. As a general rule, one Journal must record all transactions affecting the undertaking of the company; however, companies can use auxiliary journals (for sales, purchases, bank and cash transactions). When companies use auxiliary journals, the Journal only contains the centralisation of monthly entries made in the auxiliary journals
- **A General Ledger:** contains all entries from the Journal broken down according to the chart of accounts of the company. As for the Journal, the General Ledger can be detailed in many auxiliary ledgers
- **A Trial Balance:** gives total movements for the period and balances of all accounts according to chart of accounts

Since 2014, in case of tax audits, all firms (companies or branches) have to present their books in a specific electronic format called the "Accounting Entry File – AEF".

Failure to comply with this accounting obligation can result in fines.

Financial statements

Legal entities carrying out an economic activity in France (including foreign companies with branches in France) are required to file annual accounts with the Commercial Register. For branches of foreign companies, it is the financial statements of the foreign parent company which are required to be filed (translated into French). The French Commercial Code establishes the format of financial statements. The annual accounts include a balance sheet, an income statement and notes to the accounts. These accounts are publicly available on companies' public data bases.

Basic (or extended) presentation of the balance sheet, income statement and notes is required if, at the end of the financial year, two of the following thresholds are reached:

- The amount of the balance sheet exceeds EUR4 million
- The out of tax turnover exceeds EUR8 million
- The average number of employees exceeds 50 during the financial year

Accounting records must be in French, not only the names, but also the method of numbering for business accounts.

Obligations for businesses that do not exceed the thresholds above are less binding.

The company may hire a registered Chartered Accountant/ Certified Public Accountant *("Expert-Comptable")* for assistance and advisory services related to accounting, financial reporting and tax matters or may outsource to such a provider all or part of this work. Experts-Comptables are registered with a professional institute *("Ordre des Experts- Comptables").*

Audit

In France, certain legal entities must appoint a statutory auditor ("Commissaire aux Comptes") (and one deputy); the appointment is mandatory for:

- SAs and SCAs (because of their form whatever the size)
- SASs (because of their form) if the company controls or is controlled by one or more corporations (including foreign corporations), or (because of their form and size) if two of the following thresholds are exceeded for two consecutive years:
  1 Net turnover over EUR2 million
  2 Total balance sheet over EUR1 million
  3 More than 20 employees
- SARLs, SNCs and SCSs (because of their size) if two of the following criteria are exceeded at one year end:
  1 Net turnover over EUR3.1 million
  2 Total balance sheet over EUR1.55 million
  3 More than 50 employees

In certain circumstances, appointing two auditors (each independent from the other) is necessary; particularly when it is:

- A listed company (because most of them publish consolidated financial statements)
- A credit establishment or an investment firm exceeding certain limits
- A mutual insurance company that publishes joint accounts
- A company presenting consolidated accounts

When two independent auditors are engaged, the appointment letters need to clearly indicate how the work between them is going to be distributed. The distribution should be modified regularly.

Companies appointing an auditor (voluntarily or according to statutory requirements) must appoint it for a term of six financial years which is renewable. The auditor can be an individual or an auditing firm; however, when a firm is appointed, an appointed individual will bear the responsibility and sign all reports. In both cases they need to be registered with the professional auditing body: the *'Compagnie Régionale des Commissaires aux Comptes'*.

The nomination of an auditor must follow certain disclosure formalities; the nomination must be published in the legal press and registered with the Registrar of the Commercial Court. Additionally, the company's certificate of incorporation must indicate the name of both the statutory and alternate auditor.

Statutory auditors must be independent from the company they audit in all respect and cannot provide non-audit services such as accounting, financial reporting and tax services (for advisory or compliance purposes) to the same company, with some exceptions.

Companies that are required to appoint an auditor which fail to do so can face criminal penalties.

Trade

Foreign Direct Investment

In France there are practically no restrictions on Foreign Direct Investment (FDI); indeed, the country is one of the largest recipients of FDI in the world. Foreign investors need to make an administrative declaration in the following cases:

- When they create a company
- When they acquire a branch of a French company in whole or in part
- When they invest more than a third of the share capital of a French company

Where foreign direct investment exceeds EUR15 million, investors must file additional forms with the Bank of France for statistical purposes. They have 20 days to complete this procedure after the payment date. When a French resident or non-French resident acquires 10 per cent (or more) of share capital or voting rights of a resident company, it is considered foreign direct investment.

Foreign and national companies need authorisation to invest in certain businesses such as oil refining, supermarkets, service stations and cinemas. Additionally, some forms of foreign investment need prior governmental approval; for instance, approval is necessary to invest in strategic sectors such as national defence or public health. Approval from the Ministry of Economy is also necessary when a foreign company acquires 33.33 per cent of capital or voting rights of a company headquartered in France. When approval from the Ministry of Economy is required, the notification must be in writing and must include the details of any shareholder with more than a five per cent stake in case of acquisition of a listed company. No notification is necessary if the company is part of the same group and no approval is needed for capital increase if the percentage shareholding does not vary. If the Ministry of Economy does not respond within two months, the application is deemed approved. It must be noted that these notification requirements apply in addition to any required notification to the Financial Markets Authority when investing in a listed company.

France offers multiple investments incentives, especially for small and medium sized enterprises as explained in the tax section. However, as an EU member, all incentives need to be approved by the European Commission to make sure they comply with the EU competition rules.

Imports and exports

Imports

The European Union is a single trading area, this means that all goods (subject to narrow exceptions), whether made in an EU Member State or imported from outside, can circulate freely. Although Member States customs authorities have the right to check goods at the border, there is a unified customs law in the EU which removes all fees and barriers within the Union.

There is an external tariff for goods imported from outside the EU. While there are certain minor differences in interpretation and administration, the tariff was supposed to be applied and interpreted uniformly.

The Community Customs Code contains all the general rules and procedures applicable to the trade of goods between the EU and non-EU countries. The code is supplemented by a detailed Customs Regulation which is directly applicable by all Members States. Certain categories of imports may require a national or EU licence; these include Common Agricultural Policy licenses for certain foodstuffs, licenses for the importation of livestock, blood, plant life and other items subject to health and safety controls.

The national customs authority in France is the General Directorate for Customs and Excise Duties (DGDDI).

Exports

There are certain exports restrictions in the EU:

- Exports of dual-use goods are controlled under EU Regulation 428/2009. It is for Member States to exercise the options under the regulation and establish administrative procedures and penalties in respect of violations. Member States are permitted to establish national licensing requirement for reasons of public security or human rights consideration for dual-use items not controlled by the Regulation
- Exports of military materials are controlled by Member States individually

In France, both dual-use items and military materials are administered by the Export Control of Dual Use Goods and Technology Unit.

The EU and its Member States implement economic sanctions and arms embargo following United Nations initiatives. In France, the Directorate General of the Treasury administers and enforces these sanctions and maintains a consolidated list of persons subject to financial sanctions.

Competition
Companies doing business in France are subject to both French and EU competition law. The French and the EU competition authorities have very broad powers of investigation, including the power to search professional and private premises. The Competition Authority is in charge of enforcing rules and prohibiting cartels, anti-competitive practices and abuses. In addition to the power to carry out dawn raids, the Competition Authority can publish opinions on any competition issue when it considers it is necessary. Restrictive agreements and practices, including concerted practices, the abuse of a dominant position and mergers are regulated by EU legislation and French competition law.

Mergers and acquisitions
The French legislation on mergers is the Code of Commerce. A company must notify the Ministry of Economy, which in turns notifies the Competition Authority, of any merger or joint venture involving companies that meet one of the following requirements:

- A combined total worldwide turnover of more than EUR150 million
- A combined turnover in France exceeding EUR50 million for at least two of the companies concerned

Companies that fail to comply with the notification requirement can be fined up to five per cent of their turnover in France; individuals can face fines of up to EUR1.5 million.

The Competition Authority has two months to publish its opinion; the lack of opinion at the end of that period can be interpreted as consent. However, if the authority decides to carry out an in-depth investigation, it has a further two months to render its decision.

Mergers with a community dimension are regulated by the EU Commission. As such, they need to be reported under Council Regulation (EC) No. 139/2004. There are two specific situations where the EU has jurisdiction over mergers and acquisitions:

- If the combined aggregate worldwide turnover of all the undertakings concerned is more than EUR5 billion and the aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR250 million (unless one of the parties concerned achieves more than two thirds of its aggregate EU-wide turnover in a single member state)
- If the aggregate global turnover of the companies concerned exceeds EUR2.5 billion for all businesses involved, aggregate

The French and the EU competition authorities have very broad powers of investigation, including the power to search professional and private premises.

global turnover in each of at least three member states is more than EUR100 million, aggregate turnover in each of these three member states of at least two parties in more than EUR25 million and aggregate EU-wide turnover of each of at least two of the undertakings is more than EUR100 million (unless one of the parties concerned achieves more than two thirds of its aggregate EU-wide turnover in a single member state)

The European Commission may also review a merger at the request of the affected companies when they would otherwise be obliged to notify three or more Member States.

After a merger is notified, the Commission has 25 days to approve the transaction or open a procedure. When it opens a procedure, it must issue a ruling within 90 days. In certain circumstances, the Commission can refer the merger to the French Competition Authority to determine whether the merger will have a primary effect in France.

Anti-competitive practices

Anti-competitive agreements and concerted practices: Anti-competitive agreements and concerted practices are prohibited by Article 101 of the TFEU and Article L.420-1of the French Commercial Code. These regulations prohibit agreements between companies and concerted practices that prevent, restrict or distort competition in a given market. The prohibitions make reference to both agreements between competitors and agreement between a group of companies. It is important to note that not all agreements and concerted practices fall within the prohibition, both EU and French regulation provide for certain exceptions. For instance, France permits anti-competitive practices when the agreement is essential to achieve 'economic progress', including the creation of employment.

Failure to comply with the law can result in administrative, civil and penal sanctions. The Competition Authority can impose injunctions or pecuniary sanctions; additionally, civil courts can invalidate prohibitive agreements and indemnify victims. Finally, criminal law provides for prison sentences of up to four years and fines of up to EUR75,000.

Abuse of a dominant position: The abuse of a dominant position is regulated by Article 102 of the Treaty for the Functioning of the European Union (TFEU) and Article L.420-2 of the French Commercial Code. It is considered that an undertaking has a dominant position when it has enough economic power to prevent effective competition on a relevant market such that the dominant firm has the power to behave independently of its competitors, customers and consumers. Having a dominant position is not prohibited, abusing that position is.

It is assumed that a business entity with a market share of 50 per cent or more holds a dominant position. Nevertheless, undertakings with a lower market share may be viewed as dominant if they have sufficient market power. Market dominance has to be analysed on a case-by-case basis. Practices that have been considered as abuse include: single branding arrangements, tying arrangements and refusals to supply involving dominant firms, excessive pricing and pricing discrimination.

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Finance

Capital markets

NYSE Euronext

The regulated equity capital market in France is NYSE Euronext, which replaced the three previous regulated markets. NYSE is segmented into three compartment groups according to market capitalisation:

- **Segment A:** over EUR1 billion
- **Segment B:** between EUR150 million and EUR1 billion
- **Segment C:** less than EUR150 million

The main requirements to be listed in this market are:

- A minimum distribution of 25 per cent of share capital or five per cent if this represent at least EUR5 million
- Three years of certified financial statements
- International Financial Reporting Standards adopted as accounting standards
- Prospectus approved by the Financial Markets Authority (AMF) in accordance with the Prospectus Directive

Additionally, listed companies must comply with the Transparency Directive which sets several financial reporting obligations:

- Listed companies must supply audited annual financial statements
- Publish any changes in shareholding thresholds of certain percentages of share capital or voting rights
- Publish price guarantee offers

NYSE Alternext

NYSE Alternext is a non-EU regulated market of NYSE Euronext for small and mid-cap companies. Although it is not a regulated market, it is managed by Euronext through a set of rules applied to intermediaries and listed companies and approved by the AMF.

The main requirements to be listed are:

- A minimum distribution of EUR2.5 million (public offer) or EUR5 million (private placement)
- Two years of financial statements (with the last year certified)
- National or IFRS accounting standards
- Prospectus approved by the AMF or a circular without approval in the case of a EUR5 million private placement with several qualified investors

Requirements under the Transparency Directive are less stringent for companies listed in Alternext; listed companies must:

- Supply audited financial statements as well as permanent information that may have an impact on the share price
- Notify the AMF of any changes in shareholding thresholds of 50 per cent and 95 per cent of share capital
- Publish price guarantee offers

Companies listed on Euronext can transfer to Alternext. For the transfer to be possible the following conditions must be met:

- The market capitalisation of the issuer must be lower than EUR1 billion
- A general shareholders meeting must take place two months before the transfer
- The issuer must make a public announcement with two statements specifying the reasons

Investment management companies wanting to carry out business in France need to have adequate financial, technical and human resources.

for the transfer as well as the consequences for the public and the shareholders

Banking system
The Banque de France is France's central bank; it is financially linked to the European Central Bank. *The Banque de France* implements and controls the interest rate policy throughout the country; it is also responsible for formulating credit and monetary policies. Additionally, the central bank is responsible for ensuring that the banking system is run orderly and functions smoothly. The banking system is regulated by the Prudential Supervision Authority (ACP).

Insurance industry
France has a highly regulated insurance market; a significant proportion of the legal framework derives from EU legislation. All insurers established in France are currently subject to the supervision of the ACP. This regulatory body safeguards the stability of the financial system and protects banking and insurance customers. The ACP is an independent administrative authority operating under the supervision of the French Central Bank. The ACP grants licenses to insurance and reinsurance companies and supervises changes in the shareholding structure as well as in the management structure. The main regulatory provisions applicable to insurers and reinsurers are provided by: the Insurance Code, the Mutual Code, the Social Security Code and the Financial and Monetary Code.

While the extensive regulatory framework is considered to limit the scope for innovation, the French insurance market is mature and highly competitive; it is the fourth largest market in terms of premium collection. The typical route to enter the French insurance market is establishing a subsidiary or buying an existing insurer. Insurers established in the European Economic Area can conduct business in France by establishing a branch on a cross border basis.

Having insurance is a legal requirement for vehicle owners, home owners (whether rented or owned), for civil liability and for school-age children.

Investment management industry
The French asset management industry is governed by strict sets of rules emanating from domestic and European bodies. All French asset managers are subject to the supervision of the AMF; similarly, asset managers incorporated in other countries wanting to do business in France must be authorised by their home-country regulator.

The main regulations applicable to the asset management industry in France derive from European Directives, the French Monetary and Financial Code and the General Regulation, decisions and instructions of the securities regulator, the AMF.

The creation of collective investment products is subject to prior approval from the AMF to ensure that they are lawful before they are marketed. The AMF supervises closely the information contained in the prospectuses provided for potential investors. Additionally, the AMF ensures that the information provided to investors is clear; particularly for complex products.

Investment management companies wanting to carry out business in France need to have adequate financial, technical and human resources. The AMF constantly monitors companies to ensure their resources remain adequate.

The French asset management industry is strong and dynamic despite the challenging economic environment. According to the French Asset Management Association (AFG) France currently has more than 9,000 Alternative Investment Funds with EUR900 billion of assets under management. Currently there are around 600 asset management companies in the country.

Infrastructure

France has one of the most developed transportation systems in the world. Paris, the capital, was for a long time the centre of the French transportation system; however, in recent decades major transportation projects have focussed on bypassing Paris and improving connections between large provincial cities.

France has a total of 64,900 kilometres of railway. It is mainly operated by the French national railway company, the SNCF. From 1981, high-speed lines linked France's most populous area with the capital. In 1994 the Channel Tunnel opened connecting France and Great Britain by rail under the English Channel.

There are 1,000,960 km of roads in France. The French motorway network has around 12,000 kilometres and consists largely of toll roads except around large cities and parts of the north.

The French natural and man-made waterways network is the largest in Europe with more than 8,500 kilometres.

France has a large number of maritime ports including Marseille and Le Havre, two of the busiest ports in Europe. Other major ports are: Dunkerque, Calais, Nantes, Rouen and Bordeaux. Calais is one of the largest French passenger ports, handling a great volume of English Channel traffic.

There are approximately 464 airports in France. The main international airports are in Paris, Lyon, Marseille, Nice, Strasbourg and Toulouse. The main airport in Paris, Roissy-Charles de Gaulle handled 63.8 million passengers in 2014; Paris is one of the busiest cities for air travel. The National carrier is Air France.