

## **Dormant bank assets and unclaimed life-insurance policies: a reform well on its way, implementation that needs expediting**

### ***PRESENTATION***

*The so-called “Eckert Law” of 13 June 2014 bearing on inactive bank accounts and unclaimed life-insurance policies was enacted in order to improve protection of savers. Most of its provisions came into force on 1 January 2016<sup>1</sup>.*

*In 2013, in a communication sent at the request of the Chair of the National Assembly’s Finance Commission, the Court had highlighted the issues involved in protecting savers associated with unclaimed funds<sup>2</sup>. It had estimated the outstanding amount of dormant bank assets as standing at a minimum of €1.2 billion, with that for unclaimed life-insurance policies being evaluated at €2.76 billion.*

*After observing in 2015<sup>3</sup> that most of the provisions of the abovementioned law had taken up the recommendations made in 2013, in 2018, the Court set itself to checking how effectively they were being applied.*

<sup>1</sup> Only Article 5 (annual capping of expenses borne by insurance-policy subscribers and capital bond holders) and II and III of Article 8 (reinforcement of insurers’ search and information resources) came into force on 1 January 2015.

<sup>2</sup> Cour des Comptes, *Communication à la commission des finances de l’économie générale et du contrôle budgétaire de l’Assemblée nationale : Les avoirs bancaires et les contrats d’assurance-vie en déshérence* (Communication to the National Assembly’s Finance, General Economy and Budgetary Control Commission), June 2013, 213 pp., available on [www.ccomptes.fr](http://www.ccomptes.fr).

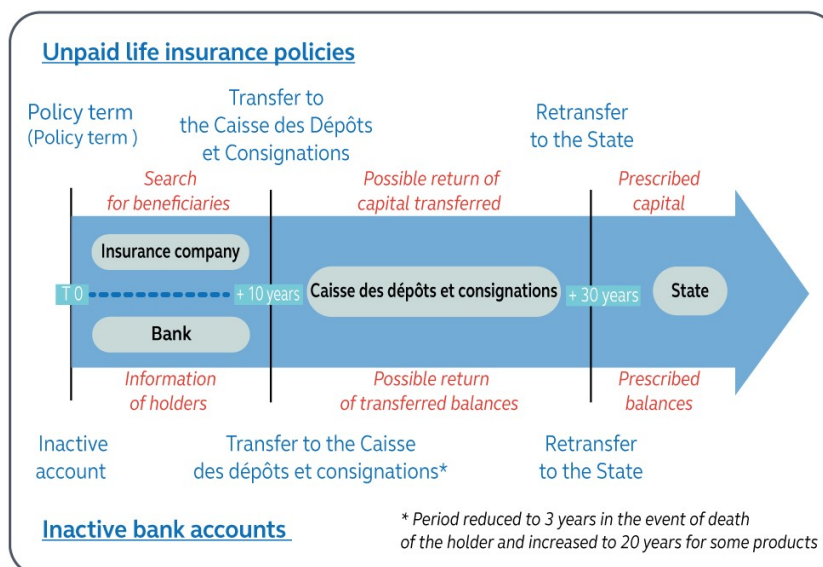
<sup>3</sup> Cour des Comptes, *Rapport public annuel 2015* (Annual Public Report), Tome II. *Les avoirs bancaires et les contrats d’assurance-vie en déshérence : une protection renforcée des épargnants* (Dormant bank assets and unclaimed life-insurance policies: reinforced protection for savers), pp. 123-152. La Documentation Française, February 2015, 435 pp., available on [www.ccomptes.fr](http://www.ccomptes.fr).

*There has been significant mobilisation of administrations and professional operators, along with positive effects for savers (I). Nonetheless, application of the law reveals a major dormancy phenomenon which is not likely to subside any time soon (II). There is still room for improvement in processing procedures and complementary measures are required if dormancy is to be better managed and finally prevented (III).*

## I - Reinforced protection of savers due to mobilisation of operators

The Law of 13 June 2014 introduced new obligations for banking institutions with regard to identification of inactive accounts and information on their holders. It also provided for stepping up insurers' searches for beneficiaries of unpaid life-insurance policies. If they are not paid up or reactivated, assets are transferred to *Caisse des Dépôts et Consignations* (CDC – Deposits and Consignments Fund), where they are centralised in order to facilitate their location by savers, before being finally transferred to the State at the end of thirty years.

**Diagram 1: processing circuit for inactive accounts and unpaid life-insurance policies**



Source: Cour des Comptes

## **A - Sustained efforts to ensure effective enforcement of the Law**

The Law had provided for an eighteen-month period between its enactment and its coming into force in order to ensure compliance on the part of actors concerned. The period was meant to be put to use making the required modifications to organisation, procedures and development of banks' and insurers' information systems. For *Caisse des Dépôts*, it was a matter of losing no time in setting up a system enabling reception of transferred assets and processing repayment requests from the public. Increased responsiveness was also expected of administrations in overseeing and facilitating the Law's application by professionals and lawyers. The Court found that such projects had been carried out successfully within the required deadlines.

First of all, the administrations concerned published implementing texts in good time<sup>4</sup> and a good many agreements were signed with professionals providing frameworks for their consultation of the public records required to identify deaths and look for individual beneficiaries. The *Direction Générale des Finances Publiques* (DGFIP – General Directorate of Public Finances) granted lawyers access to the *Fichier de Recensement des Comptes Bancaires* (FICOBA – National Bank Account Registry) and the *Fichier des Contrats Assurance-vie* (FICOVIE – Nation Life-Insurance Policy Registry). The *Institut National de la Statistique et des Etudes Economiques* (INSEE – National Institute of Statistics and Economic Studies) also organised banks' access to “death records”, extracts from the *Répertoire National d'Identification des Personnes Physiques* (RNIPP – National Directory for the Identification of Physical Persons<sup>5</sup>).

Secondly, insurance companies instigated major changes enabling considerable progress to be made in processing unclaimed policies. Significant resources were allocated to stock clearance projects, leading to a tenfold increase in numbers of employees tasked with such procedures

<sup>4</sup> The Law was the subject of a single Decree no.2015-1092 of 28 August 2015, complemented by three Orders: the Order of 21 September 2015, setting the ceiling for costs applicable to inactive accounts; the Order of 24 June, specifying the list of information on the number and outstanding amounts of unpaid policies to be published annually by insurers; and the Order of 4 July 2017 bearing on cases of opening inactive safe deposit boxes, setting the threshold below which banks are exempted from holding a judicial sale.

<sup>5</sup> The RNIPP has been kept by INSEE since 1947, and lists all people born in France and those born abroad requiring a registration number in the directory (NIR, also referred to as “social security number”), along with data on their civil status.

between 2008 and 2015, and over 150,000 files being entrusted to genealogists or specialised investigators' practices in 2015<sup>6</sup>. Most companies have provided themselves with "dormancy committees", which decide on what to do with files whose beneficiaries have not been located. Initiatives have also been taken at the level of the profession, including creation in October 2017 of a scheme not provided for by the Law enabling the public at large to look for funeral and dependent life insurance policies<sup>7</sup>, at the initiative of the *Association pour la Gestion des Informations sur le Risque en Assurance* (AGIRA – Association for the Management of Insurance Risk Information).

#### **An illustration of the approach taken by CNP Assurances**

CNP Assurances had been heavily penalised in 2014 for failure to look for life-insurance policy beneficiaries and identify deaths. Since then, it has made significant human and material investments.

The company has developed a tool enabling it to detect deaths in cases of similar data, so reducing the consequences of input errors in its files (variable spellings of first names, hyphenated surnames, etc.). Its search for beneficiaries relies on its in-house teams banking partners and external practices. When needed, it makes use of its distributors' client files or even the database on people who have relocated.

Its compliance costs came to €42.6M between 2014 and 2017 and are estimated at €11.5M for 2018.

Thirdly, the banking sector has introduced tools enabling it to trace all its clients' operations in all their forms and across all their accounts, with a view to detecting inactive bank assets. New processes have been developed for identifying deaths, closing accounts, informing clients and transferring sums at the end of ten years of inactivity<sup>8</sup>.

<sup>6</sup> Figures from the study by the *Autorité de Contrôle prudentiel et de Résolution* (ACPR – Prudential Supervision and Resolution Authority) on a sample of 28 insurers representing 90% of the French life-insurance market.

<sup>7</sup> Possibility of looking for dependent life-insurance and funeral insurance policies by web form or request by post, addressed to AGIRA ([www.agira.asso.fr](http://www.agira.asso.fr)).

<sup>8</sup> A period reduced to three years in the event of the holder's death and extended to twenty years for *Plans d'Epargne Logement* (PELs – Home Ownership Savings Plans) in cases where a PEL is a client's only account at a given bank.

**The Banque Postale's IT developments to identify inactive accounts**

Since 2016, an IT tool has integrated all possible manifestations of account-holder activity: bank transactions and manifestations by email, telephone, post or in person at any of the La Poste Group's many branches. Cross-referencing of such information enables detection of inactivity.

The Banque Postale spent a total of €6.4M on the tool between 2016 and 2018 plus maintenance costs assessed at €0.2M€ a year: sums that only concern IT costs.

Although it identified a number of noncompliant practices during its inspections, the *Autorité de Contrôle prudentiel et de Résolution* (ACPR – Prudential Supervision and Resolution Authority) deemed that the required processes and tools were up and running in the institutions questioned. It communicated its findings to the profession in 2017. It provided substantial support to the Law's implementation in the form of surveys among institutions<sup>9</sup>.

Finally, *Caisse des Dépôts* launched its system for reception of deposits and search for assets in timely fashion. Upon completion of preparatory work well supplied with professional operators, 254 banks and insurers were able to transfer their dormant stocks in 2016. On 2 January 2017, *Caisse des Dépôts* inaugurated the *Ciclade* website<sup>10</sup>, which enables savers to look for their assets in its databases. The Internet portal was coupled with a call centre and a letter and email processing department. There were as many as 65 employees in the Asset Recovery Department in 2018. Initial investment costs were to the tune of €12M with the mission representing an annual cost in 2018 estimated at € 17.5M<sup>11</sup>.

<sup>9</sup> At Parliament's request, the ACPR published two information reports, one on *Les contrats d'assurance-vie en déshérence* (Unclaimed life-insurance policies – 28 April 2016) and the other on *Les contrats d'assurance-vie dont les prestations sont liées à la cessation d'activité professionnelle* (Life-insurance policies whose benefits are connected with retirement – 24 May 2018).

<sup>10</sup> <https://ciclade.caissedesdepots.fr>.

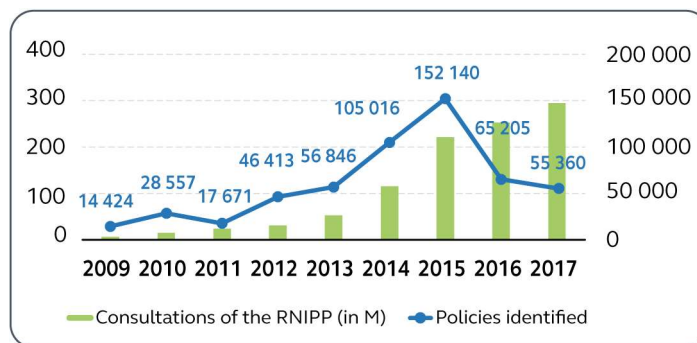
<sup>11</sup> Including €1.7M for seven-year amortisation of the initial investment and €3.3M of internal re-invoicing for the call centre.

## B - First positive effects for savers

### 1 - Processing of policies and bank asset reactivation well underway

As from 2014, insurers' active consultation of the RNIPP at least once a year on the totality of their portfolios<sup>12</sup> has contributed to a significant increase in policies newly identified as unpaid.

**Graph 1: number of unpaid policies identified every year by insurers through consulting the RNIPP**



Source: ACPR (2009-2015) and AGIRA (2016-2017)

In 2016, insurers paid out €2.2 billion to beneficiaries of unpaid life-insurance policies in existence the previous year and €2 billion in 2017. However, according to the companies concerned, the situation is unequal. Among the ten largest insurers on the French market, the settlement rate<sup>13</sup> in 2017 of contracts existing at end 2016 varied between 27% and 47%.

As regards bank assets, the Law's first consequence was reactivation of numerous accounts, due to holder information initiatives, in particular on transfer of sums to *Caisse des Dépôts* in the absence of any action on their part. In 2016, the average reactivation rate came to 50%<sup>14</sup>, with major disparities depending on types of account and the banks concerned. There was therefore a tangible effect although there are still a good many non-reactivated accounts in existence, which may well denote a continuing lack of assiduity.

<sup>12</sup> This legal obligation had existed since 2007 but most insurers applied the selection criteria excluding policies of less than €2000 and insured parties under 90 y/o.

<sup>13</sup> Payments to beneficiaries, transfers to *Caisse des Dépôts* and 30-year prescription periods.

<sup>14</sup> For the seven banking groups accounting for 92% of savings collected on the French market.

### **The Banque Postale's approach**

As the traditional distributor of *Livret A* savings accounts, the Banque Postale was faced with a very large number of inactive accounts, representing 19% of its customer base. 2.3 million accounts were theoretically destined to be transferred to *Caisse des dépôts* in 2016.

The Bank set to work mobilising its network; well beyond the simple obligation of informing its clients, with even postmen on their delivery rounds being involved in communication actions targeting certain clients. By doing so, the Bank managed to limit transfers of accounts to *Caisse des Dépôts* to 1.8 million accounts in 2016.

## **2 - Acknowledged usefulness of *Caisse des Dépôts* information website but still only modest repayments**

The Ciclade website, which has undergone various developments in its functionalities since it was launched, enables enquirers to input their civil status data and be informed immediately in the event of there being any correspondence with *Caisse des dépôts* files. They are then asked to create a personal space and communicate the documents required to process their requests and trigger repayment of the sums concerned. In specific cases<sup>15</sup>, they may also send a search request by post. At 30 November 2018, the website had recorded over 1.5 million searches, 130,250 of which had led to a repayment request. In addition, *Caisse des Dépôts* departments received 132,000 phone calls, 33,000 emails and 30,500 letters.

However, there has only been a limited number of repayments so far, representing a total of €43.2M at end November 2018, less than 3% of the sums deposited by banks and insurers. This situation may be partly explained by the very nature of the deposits: sums transferred are those that have not resulted in repayment or reactivation by sector professionals. There is therefore strong presumption of dormancy. In addition, *Caisse des Dépôts* is obliged to conserve sums but not to look for their beneficiaries.

Repayments are mostly of small sums, with the median standing at €58 for bank accounts and €382 for life-insurance policies. Fewer than one in five concern cases of succession, with most sums being returned to policy subscribers or account holders themselves.

<sup>15</sup> Assets impossible to search for on Ciclade or enquirers with no Internet access.

**Table 1: total repayments made by *Caisse des Dépôts et Consignations* in 2017 (in €)**

	Average	Median	Lowest sum repaid	Highest sum repaid
Life insurance	3,261	382	15	79,874
Bearer bonds	7,477	3,163	210	263,439
Company Savings Plans	7,410	700	0.01	254,776
Bank accounts	918	58	0.01	304,504

Source: *Caisse des Dépôts et Consignations*

**Table 2: examples of repayments made by *Caisse des Dépôts et Consignations* in 2017**

	Type of claimant	Sum repaid	Reason
Life insurance	Heir	€37,000	Request for repayment in compliance with a life-insurance policy's beneficiary clause
Bank account	Holder	€2000	The holder had forgotten the account
Company Savings Plan	Holder	€22,000	Holder's reaction following a letter from the institution informing him of the transfer of assets

Source: *Caisse des Dépôts et Consignations*

\*  
\*\*

Although it is not the first piece of legislation aimed at combating savings product dormancy, when it came into force, the Law of 13 June 2014 led to mobilisation of all actors concerned. The penalties imposed by the ACPR for malpractice<sup>16</sup> played a not insignificant role in this development.

After over two years of implementation, its success shows that the problem of unclaimed life-insurance policies had not really been taken in hand prior to its enactment. Processing of dormancy is an obligation of good management for banks and insurers alike, as well as an ethical requirement vis-à-vis savers. The Law has enabled more objective quantification of the size of sums to be repaid, both for life-insurance policies and bank accounts.

<sup>16</sup> Between 2014 and 2015, The ACPR's Sanction Commission imposed penalties on four insurers to a cumulative total of €103M.



## **II - A larger and more lasting dormancy phenomenon than initially estimated**

By giving a definition to inactive accounts and unpaid contracts, the Law of 13 June 2014 has enabled them to be followed up on a like-for-like basis. The diagnosis carried out reveals a larger and more lasting phenomenon than first anticipated when it was adopted.

### **A - A far greater volume than initially estimated**

Numbers of unclaimed policies held by insurance professionals had been seriously underestimated prior to the Law's enactment. At 31 December 2015, outstanding amounts were to the tune of €5.4 billion, a level far exceeding the €2.76 billion estimate available in 2013. Even after transfer of the oldest policies to *Caisse des Dépôts* and compliance with the 30-year prescription period, €4.7 billion still remained unpaid at end 2017.

There is much less stock visibility. According to the ACPR, at 1 January 2016, banks held 17.7 million accounts meeting the inactivity criteria set by the Law, for a total of €18.9 billion outstanding. At end 2016, following reactivation of half the outstanding amounts and transfer of the oldest assets to the State and *Caisse des Dépôts*, inactive accounts and bank assets still kept by banks came to €6.2 billion<sup>17</sup>.

Total transfers to *Caisse des Dépôts* (bank assets and life-insurance policies) came to €3.7 billion in 2016 and continued increasing to reach €5.1 billion at 30 November 2018. Over three-quarters of sums deposited correspond to bank assets. There are several explanations for this situation. First of all, due to the difference between life-insurance policies and bank assets, banks are only obliged to inform account holders before transferring funds to *Caisse des Dépôts*; secondly, a number of factors, including diversification of households' financial investment tools, geographical mobility and "multibanking" on the part of clients, have led to an increase in the risk of account inactivity.

---

<sup>17</sup> In the absence of an annual report to the ACPR, outstanding amounts in accounts inactive at end 2017 are not known.

## **B - Limited profit for the State under the 30-year prescription period**

Given the quantity of dormant assets identified, major transfers under the 30-year prescription period might well be expected. This has not yet been the case, however, with sums collected by the State amounting to no more than €83M in 2016 and €137M in 2017.

This situation may well be the result of the artificial rejuvenation of various assets due to computerisation of files in the 1990s and 2000s and the switch to the euro. These technical operations may have led to incorrect recording of signs of activity in clients' accounts. This means that the 30-year prescription period for sums kept at *Caisse des dépôts* will lead to a significant increase in transfers to the State between 2031 and 2037<sup>18</sup>.

The Law of 13 June 2014 fostered simplification of the prescription collection circuit by the *Direction Générale des Finances Publiques* (DGFIP – General Directorate of Public Finances)<sup>19</sup>. Nonetheless, there is still room for improvement: dormant deposits and assets at the end of the prescription period are handled by a variety of accountants, while direct transfers from banks and insurers continued in 2018 although they should have been interrupted in 2017<sup>20</sup>.

## **C - A probable slight decrease in the coming years**

Numbers of unpaid life-insurance policies are decreasing slightly, by 6 or 7% a year. This evolution is the result of three movements in different directions:

- payments to beneficiaries and transfers to *Caisse des Dépôts* and the State reduced the stock by €3 billion in 2016 and € 2.2 billion in 2017;
- in parallel, efforts made to identify old deaths, combined with the occurrence of new deaths, was expressed by inflows of over €1.9 billion in 2017, partly negating the reduction in numbers;
- numerous policies are classified as “no further action” due to failure to identify beneficiaries, but can only be transferred to *Caisse des Dépôts* ten years after knowledge of death. This legal latency period is another cause for continued high levels of stock.

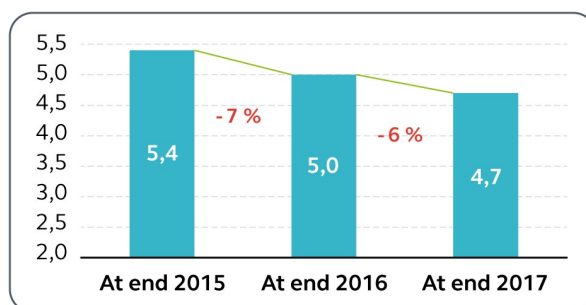
---

<sup>18</sup> They should be less than €200M a year up until 2030. Transfers should peak in 2032 to reach €570M.

<sup>19</sup> Since 2016, the *Comptable Spécialisé du Domaine* (CSDom – Government Property Department Accountant) is the only accountant authorised to collect 30-year prescriptions.

<sup>20</sup> *Caisse des Dépôts* should be the accountant's sole interlocutor as from 2017.

**Graph 2: evolution of outstanding sums in unpaid policies held by insurers (in € billions)**



Source: ACPR

In contrast, a movement in the opposite direction is to be observed in the banking sector and *Caisse des dépôts* alike.

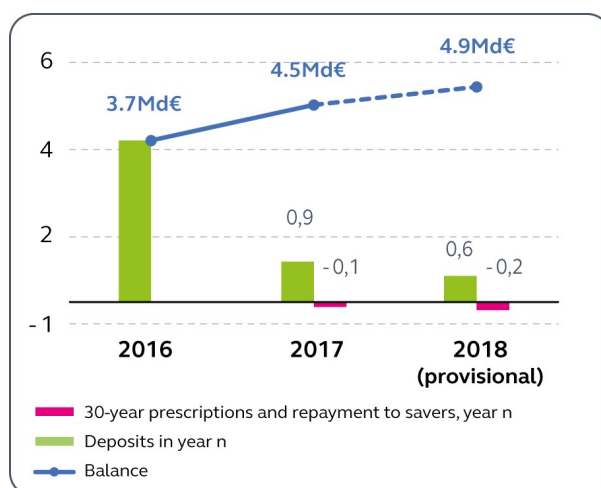
For the banking sector, the quantity of inactive accounts is the subject of a measure that can only be indirect. Unlike insurers, the Law does not require banks to communicate annual reports to the ACPR. They have to publish the number of their inactive accounts on a durable communication medium, but this requirement is complied with unequally and the information concerned remains hard to find, in particular for regional banking groups. Monitoring of quantities of inactive accounts is therefore based on special surveys that the ACPR does not carry out every year. The information gathered by the Court during its investigation<sup>21</sup> of a selection of banks reveals a 24% increase in value of inactive accounts between 2016 and 2017. This increase, which is difficult to interpret due to lack of documentation, may be due to yet uncompleted inventorying. In order to make monitoring of banks' obligations more transparent, the Court recommends that the publication requirement provided for by the Law is accompanied by annual communication to the ACPR, as is the case with unpaid life-insurance policies.

As regards *Caisse des Dépôts*, the stocks it holds have been increasing steadily since 2016. Flows of deposits remain highly dynamic and should reach €600M in 2018<sup>22</sup>. At 31 December 2018, the balance of deposits should be to the tune of €4.9 billion.

<sup>21</sup> Analysis of data published by five major banking groups.

<sup>22</sup> Including €471.8M already noted at 30 November 2018.

**Graph 3: balance of sums held by *Caisse des Dépôts et Consignations* (in € billions)**



Source: Cour des Comptes according to Caisse des Dépôts et Consignations

In all likelihood, there should be no significant decrease in this balance over the next few years. As the Banque Postale's forecasts suggest, still larger amounts will probably be transferred.

#### **A large number of accounts likely to be closed by the Banque Postale by 2027**

At 30 April 2018, The Banque Postale had identified 2.5 million inactive accounts which will have to be closed by 2027 if they are not reactivated by their holders. They represent €1.47 billion and 70% of them are *Livrets A*. Reactivation operations carried out by the Bank in 2016 led to a 37% decrease in outstanding sums that would have been transferred to *Caisse des Dépôts* or the State. The effects of initiatives designed to inform the account holders concerned, via which the Banque Postale has attempted unsuccessfully to recover contact, are likely to diminish over time. This being so, large transfers to *Caisse des Dépôts* may well continue to be carried out by the company.

Conversely, transfers to the State following the 30-year prescription period will be of modest proportions up until 2031 and sums repaid to savers should remain limited due to high presumption of dormancy. The probable stability of outstanding amounts at *Caisse des Dépôts* over the medium term, in particular connected with the length of the legally required period for retention of sums<sup>23</sup>, must be taken into account in its financial management.

<sup>23</sup> Up to 27 years for inactive bank assets in the event of their holder's death.

\*  
\*\*

The quantitative assessment at end 2018 is qualified. It suggests that stocks retained by banks and insurers will decrease slowly. Volumes of unpaid life-insurance policies should remain high over the coming years, despite the initial results obtained for payment of identified amounts. The evolution of numbers of inactive bank accounts seems to suggest that their inventorying is still underway and, above all, that there is a measure of uncertainty as to the possibility of reactivating them or even of contacting their holders or beneficiaries. These trends would seem to be corroborated by the volumes transferred to *Caisse des Dépôts*. Stability in outstanding amounts it collects would appear to be a likely hypothesis for the future.

### **III - Processing of dormancy yet to be perfected and prevention required**

Repayment of sums to savers is hampered by various obstacles that could well be removed by improvement in operators' in-house procedures. They themselves encounter problems in applying the texts concerned and modifications to these latter are required if they are to ensure that assets are processed as the Law requires. More generally, the system currently implemented would gain by being extended to cover other fields of potential dormancy.

#### **A - Continuing problems in savers' "user paths"**

As regards insurance professionals, the Law of 13 June 2014 set a general obligation of rapidity in payment of death benefits in order to prevent their dormancy. It provides for settlement deadlines<sup>24</sup> and for automatic payment of legal interest in the event of the insurer's noncompliance. Findings on the part of consumer associations and the insurance mediator show that this obligation has not yet been fully integrated by the profession<sup>25</sup>.

<sup>24</sup> Insurers have a maximum of one month to pay as from reception of the necessary documents, which must be requested from the beneficiary within 15 days following knowledge of the death.

<sup>25</sup> *La médiation de l'assurance* (Insurance Mediation), Activity Report 2017, June 2018.

Regarding *Caisse des Dépôts*, savers are sometimes faced with problems when searching for their assets. The Cielade website has its shortcomings: several types of assets<sup>26</sup> may only be requested by letter, while a number of employee savings products are processed on another website<sup>27</sup>. No search solution is provided to associations that are beneficiaries of life-insurance policies but not informed by the subscriber, as Cielade only takes account of information from insured parties and not from beneficiaries. Although there are not many such cases, repayment of savers should be possible for all savings products that have been transferred.

In addition, processing of request is still lengthy and lacking in clarity. Over the first 18 months of operation, the average time before repayment was 6.4 months. Although it is gradually decreasing, it still stood at 5.3 months over the first eight months of 2018. Internal control procedures designed to prevent attempts at fraud may be seen as discouraging in the absence of information on the steps required to process files<sup>28</sup> or on sums involved in potential repayments.

Positive but partial developments in 2018 have improved the website's search engine, in particular by lowering the request refusal rate. *Caisse des Dépôts* has announced other improvements, with the aim of reducing the average processing time to three months.

## **B - The question of interest on assets deposited at *Caisse des Dépôts***

Pursuant to Article L. 518-23 of the Monetary and Financial Code, conditions for interest on deposited assets are set by decision of the Director-General of *Caisse des Dépôts*, taken upon the advice of the Supervisory Commission and approved by the Minister of Economy and Finance. This provision has not been implemented for over two years.

In August 2018, the Director-General of *Caisse des Dépôts* presented a draft order to the Supervisory Commission setting the asset interest rate at 0%. This proposal diverged from the aim of protecting savers enshrined in the Eckert Law. Most products deposited at *Caisse des*

---

<sup>26</sup> Capitalisation bonds and funds belonging to legal entities.

<sup>27</sup> Savings under profit-sharing and incentive schemes not invested in a *Plan d'Épargne Entreprise* (PEE – Company Savings Plan) must be searched for on the consignations website <https://consignations.caissedesdepots.fr/recherche>.

<sup>28</sup> Information is sent to enquirers when their requests have not been processed 90 days after submission.

*Dépôts* earned interest prior to their transfer. Regulated savings products such as *Livret A*, which alone accounted for over three-quarters of bank assets deposited at end 2017, continue to collect legal interest while they are retained by banks. Similarly, the Law imposed *post-mortem* revaluation of life-insurance policies throughout the time they are held by insurers but coming to an end when they are transferred.

In November 2018, following a recommendation made by the Court during its investigation, *Caisse des Dépôts* proposed a new draft order to the Supervisory Commission, setting interest on deposited assets at 0.3%. According to *Caisse des Dépôts*, this rate results from prospects of return on sums deposited minus their management costs, and from analysis of deposit interest rates before their transfer. It will have to undergo periodic re-examination in order to take account of the situation of financial markets and improvement in knowledge of lengths of time sums are retained by *Caisse des Dépôts*.

### **C - Adjustments required in the processing of certain savings products**

In a number of cases, problems of application raised by the actors concerned have limited the Law's scope. Several types of adjustments are therefore required, some specifically concerning *Caisse des Dépôts*, and others specific to various products and management cases.

First of all, the system implemented should enable the widest possible transfer of savings products to *Caisse des Dépôts*, which cannot, however, legally take responsibility for certain assets, including policies with annuities, or is unable to repay them<sup>29</sup>. *Caisse des Dépôts* is also seeking adjustments designed to facilitate its processing methods. Some have already been made<sup>30</sup>, while others require study on the administration's part, which is yet to bear fruit. It is largely a matter of easing its tax obligations and ensuring its access to the *Fichier de Recensement des Comptes Bancaires* (FICOBA – National Bank Account Registry) to prevent risks of identity theft during repayments.

<sup>29</sup> The case of capitalisation bonds subject to an opposition procedure for loss or theft transferred to *Caisse des Dépôts*.

<sup>30</sup> Collective tax return to the DGFIP for deductions of under €15, transfer of files to lawyers in succession cases underway and repayment of sums greater than €5000, apart from life-insurance policies with beneficiary clauses.

Secondly, the *Direction Générale des Finances Publiques* (DGFîP – General Directorate of Public Finances) cannot apply the stipulations bearing on unlisted securities, which provide for direct transfer to the State under the 30-year prescription period, without transiting via *Caisse des Dépôts* or liquidation by banks. As the public accountant cannot liquidate such securities, they are held by banks.

Thirdly, the situation with regard to inactive safe deposit boxes has not been resolved. The Law of 13 June 2014 authorised banks to open them, but very few of them do so. Concrete ways of applying the Law raise delicate questions, in particular as regards transfer to the State of assets of cultural or historical interest. Unlike other assets, the potential heterogeneity of the contents of inactive safe deposit boxes complicates any all-embracing processing solution. When they contain objects rather than currency, their possible sale, transfer or destruction may diverge from the objective of protecting their owners' rights.

Finally, inclusion of a number of products in the repayment system is subject to a variety of interpretations on the part of the actors concerned<sup>31</sup>, who therefore do not handle them.

## **D - Dormancy prevention requiring further development**

### **1 - The essential reliability of client data**

Prevention of dormancy is based on banks' and insurers' possession of complete and reliable client data, as it is essential to detection of deaths, provision of information to account-holders and the search for beneficiaries. A good many reliability improvement projects are currently being implemented by banks and insurers.

In order to facilitate payment of life-insurance policies, the Law has provided insurers with the possibility of obtaining death-benefit beneficiaries' contact details from the tax authorities. This provision should come into force in the first half of 2019, with the signing of a convention between the DGFîP and AGIRA.

---

<sup>31</sup> Including savings certificates, company members' shares, registered securities held by issuers and personal accident policies containing guarantees other than life insurance.



In addition, the question of banks' and insurers' access to the National Registration Number (NIR)<sup>32</sup> in the National Directory for the Identification of Physical Persons, which they have been requesting for several years, is likely to evolve. In the context of the coming into force of the General Data Protection Regulation (GDPR), Law no.2018-493 of 20 June 2018 provides for a Council of State decree governing conditions for banks' and insurers' use of NIRs, issued following reasoned opinion and published by the *Commission Nationale de l'Informatique et des Libertés* (CNIL – National Commission for Information Technology and Civil Liberties). The Decree will replace an authorisation by the CNIL dating back to 2014, which restricts collection of NIRs by insurance companies to a few cases and does not allow their use for improving the reliability of their files.

Back in 2013, the Court stressed that access to NIRs, under certain conditions of confidentiality and security imposed on user bodies, could lead to progress in prevention of dormancy. It is the most reliable way of removing doubts on identification of clients with the same names, or who have changed their customary names or first names. In any case, its use would not solve problems in processing stocks of old policies for which insurers never collected NIRs or in identifying deaths not recorded in the RNIPP<sup>33</sup>.

## **2 - A source of potential dormancy to take into account: supplementary pension policies**

Law no.2016-1691 of 9 December 2016 bearing on transparency in the fight against corruption and on modernisation of economic life – the so-called “Sapin 2” Law – reinforced insurers' obligation of information vis-à-vis supplementary pension policy holders: as from the legal retirement age, the latter must be informed every year of the possibility of paying out the benefits provided for in their policies.

From the point of view of dormancy prevention, there is imperfect interaction of these provisions with those of the Law of 13 June 2014. The Eckert Law only bears on fixed-term policies<sup>34</sup>, the departure point for insurers' payment obligations. Yet supplementary pension policies are not fixed-term and most of them provide for an exit in the form of an annuity. These characteristics have two effects: firstly, they are not subject to

<sup>32</sup> Also referred to as “social security number”.

<sup>33</sup> The RNIPP is not exhaustive for people who were born before 1946 and died before 1972 or for deaths occurring abroad.

<sup>34</sup> Explicit fixed term or death of the insured party.

searches by beneficiaries<sup>35</sup>; and secondly, if the insurer does not know of the death, the debt obligation continues and the corresponding funds are not transferred to *Caisse des Dépôts*.

In its report to Parliament<sup>36</sup>, the ACPR estimated capital from annuities unpaid after the legal retirement age of 62 at €13.3 billion, and suggested possible solutions to ensure its payment.

Absence of these contracts' liquidation is not necessarily similar to their dormancy as it could be a choice on the part of the insured party, who might, for example, deliberately postpone the liquidation date in order to increase his or her annuity. Characterising the dormancy of such contracts' dormancy is therefore more difficult. However, they are exposed to high risks of dormancy due to a number of specificities including the fact that there is no fixed term to the contractual relationship and, with regard to compulsory group contracts, insured parties' ignorance of their rights. Dormancy may also be the result of databases that are even more incomplete than they are for individual contracts, making it impossible to identify and locate beneficiaries. The Law of 13 June 2014 did not envisage such a case.

This important subject deserves to be provided with an appropriate system of its own. Introducing termination by default for supplementary pension policies, with insurers being under the obligation to search for beneficiaries as provided for by the Law, would be a first step. A complementary course of action, which would require in-depth analysis, could focus on possibilities for exchanges of information between insurers and the Union Retraite *Groupe d'Intérêt Public* (GIP – Public Interest Group)<sup>37</sup>.

---

<sup>35</sup> Except in cases of the insured party's death being known by the insurer and on condition that the contract includes a reversion clause.

<sup>36</sup> ACPR, *Contrats d'assurance-vie dont les prestations sont liées à la cessation d'activité professionnelle* (Life-insurance policies whose benefits are connected with retirement), 24 May 2018.

<sup>37</sup> The *Union Retraite* is a GIP bringing together mandatory, basic and complementary retirement pension bodies; among other things, it is tasked with implementation of the right to information on pension entitlements.

## **CONCLUSION AND RECOMMENDATIONS**

*Enactment of the Law of 13 June 2014 was certainly a step in the right direction, due to the consequent mobilisation among all actors concerned – banks, insurers and Caisse des Dépôts et Consignations. So far, initial results regarding restitution of unpaid assets are encouraging. However, the quantitative outcome could well be improved, in particular in the banking sector, which does not have the same obligations as the insurance sector as far as looking for beneficiaries is concerned.*

*The system has not yet reached its “cruising speed”. Results of the first two years of processing by banks and insurers and amounts retained by Caisse des Dépôts tend to show that clearance of old stocks has not yet been completed and that erosion is slow.*

*The Law should apply to all life-insurance and savings products (apart from exceptions expressly provided for). Practice has revealed difficulties in applying it in certain cases, requiring modifications in legislation and improvements in banks’ and insurers’ internal management processes.*

*In addition, thought is being given as to how to handle types of financial-product dormancy that had not been envisaged at the time the Law was drawn up. Resulting decisions should apply to the case of supplementary pension policies, which are a significant source of potential dormancy. More generally, continuing innovation in the field of financial savings products calls for vigilance on the part of the State, which will have to ensure that any text creating a new product takes full account of provisions bearing on its dormancy, so as not to have to periodically update the provisions of the Law of 2014.*

*Consequently, the Court makes the following recommendations:*

- 1. (Caisse des Dépôts et Consignations): develop the Ciclade website’s functionalities and ergonomics in order to facilitate savers’ searches for transferred assets;*
- 2. (Caisse des Dépôts et Consignations): optimise internal procedures for processing users’ requests, in order to reduce the time it takes to recover assets;*
- 3. (General Directorate of the Treasury): prepare legislative amendments enabling specification of the products falling within the scope of the Law of 13 June 2014, and include a provision making it compulsory for banks to communicate an annual report to the ACPR;*
- 4. (General Directorate of the Treasury): define modes of application of dormancy to supplementary pension life-insurance policies.*

## Replies

Reply from the Minister of Economy and Finance.....	21
Reply from the Minister of Public Action and Accounts.....	22
Reply from by the Governor of the Bank of France, President of the Prudential Supervision and Resolution Authority .....	22
Reply from the Director-General of <i>Caisse des Dépôts et Consignations</i> .....	23

## Addressees who made no comments

Acting Director-General of CNP Assurances
President of the Executive Board of the <i>Banque Postale</i>

## Addressees who did not reply

President of the <i>Caisse des Dépôts et Consignations</i> Supervisory Commission
---

### **REPLY FROM THE MINISTER OF ECONOMY AND FINANCE**

*The document you submitted for my consideration includes a laudatory overall assessment of the implementation of the Law of 13 June 2014, emphasising that its dual objective of protecting savers and bringing financial institutions into compliance has been largely achieved. Your report highlights the high degree of mobilisation among all actors concerned (State, ACPR, AMF, banks and insurance companies, and Caisse des dépôts et Consignations), which managed to implement the procedures provided for by the Law in a short space of time.*

*In the light of this general assessment, which I am fully in agreement with, I should like to make a few observations on the various recommendations you have put forward:*

- *As regards the recommendation on improving the functionalities of the “Ciclade” platform developed by Caisse des Dépôts et Consignations (CDC) and the need to optimise processing procedures in order to shorten times taken to return sums to their beneficiaries, I am in full agreement with your conclusions, but should like to point out that it is first of all for CDC to take them into consideration and, if required, implement the improvements you suggest.*
- *As regards the recommendation that CDC should lose no time in issuing an order providing for reasonable interest earned by sums deposited with it pursuant to the Law of 13 January 2014, the principle of remunerating such sums is enshrined in legislative and regulatory texts and is integral to the Law’s objective of protecting savers. In addition, in view of the volume of sums transferred to CDC and their runoff rate, which remains limited at this point in time, the principle of interest on deposits would seem altogether reconcilable with that of CDC’s covering of the system’s management costs, even when account is taken of the supplementary resources the institution has had to mobilise in order to process repayment requests. I note that CDC’s Supervisory Commission has examined a draft order setting a rate of 0.3%. It seems to me that this amount will have to be reassessed periodically depending on evolution of market rates, and, if required, adapted in order to take account of the runoff rate of amounts collected, which is currently not fully apprehended.*
- *As regards avenues for amending the Law mentioned in the report and which may lead to some of its provisions becoming more specific or extend its scope, I take note of the recommendations inviting my department to study possible clarifications and evolutions, in particular with regard to pure registered securities accounts held by*

*their issuers and insurance policies providing for annuities. Following in-depth expert assessment, legislative developments may well be envisaged with regard to these various points, as well as others (savings certificates, group pension savings plans and intercompany savings plans, and liquidation of unlisted securities). However, I do not believe it is the right time to make it obligatory for banks to communicate an annual report on their stocks of inactive accounts to the ACPR. Article R. 312-21 of the Monetary and Financial Code stipulates that banks must publish an annual report or employ another easily accessible durable document containing the number of inactive accounts open in their books and the total value of deposits and assets in such accounts, along with the number of accounts including deposits and assets transferred to CDC and, finally, the total value of deposits and assets transferred. Banks' transparency obligations would seem to be specific enough and any failures observed may result in application of penalties.*

---

**REPLY FROM THE MINISTER OF PUBLIC  
ACTION AND ACCOUNTS**

*Neither the report nor the recommendations it contains call for any observations on my part, with the exception of the following point.*

*The extract you communicated to me mentions that Caisse des Dépôts et Consignations is seeking adjustments facilitating the processing of certain dormant assets, some of them requiring study on the administration's part that has not yet come to fruition, in particular with regard to access to the National Bank Account Registry (FICOBA).*

*I can confirm that the General Directorate of Public Finances' departments responsible for examining requests for access to FICOBA have not been referred to by Caisse des Dépôts et consignations on this point and have therefore not yet set about studying it.*

---

**REPLY FROM THE GOVERNOR  
OF THE BANK OF FRANCE, PRESIDENT OF THE PRUDENTIAL  
SUPERVISION AND RESOLUTION AUTHORITY**

*First of all, emphasis is given to the strong mobilisation of actors concerned, including the Prudential Supervision and Resolution Authority (ACPR), which I take to be particularly positive.*

*I also note that action taken by the various bodies involved has borne fruit (detection and settlement of policies and reactivation of accounts), even though efforts on the part of professionals must continue in order to avoid stocks building up again.*

*Questions of dormancy continue to mobilise the ACPR, both as regards the insurance sector, on which we have published a report specifically focusing on supplementary pensions and identifying problems encountered in such portfolios, and the banking sector, on which checks were carried out in 2018, following an initial investigation conducted in 2017, and presented at the Authority's annual Supervision Conference. In this respect, new action on the specific subject of savings will be taken in 2019.*

### **REPLY FROM THE DIRECTOR-GENERAL OF CAISSE DES DÉPÔTS ET CONSIGNATIONS**

#### ***An operational system***

*I am pleased to note that "The Court found that such projects had been carried out successfully within the required deadlines" and that "Enactment of the Law of 13 June 2014 was certainly a step in the right direction, due to the consequent mobilisation among all actors concerned".*

*Alongside other financial actors, Caisse des dépôts mobilised its resources and teams to ensure that the entire system would be up and running by the date set by the Law and succeeded in implementing the system for dormant asset reception on time, as well as the system for processing any requests for returning such assets.*

#### ***An assertive client orientation***

*On 2 January 2017, Caisse des Dépôts inaugurated the [ciclade.fr](http://ciclade.fr) website, an online service designed with the help of users and consumer associations.*

*The site enables its users to search free of charge for sums from life-insurance policies and inactive accounts transferred to Caisse des Dépôts, in compliance with the obligations of publicity provided for by law. Searches are carried out in the database made up of information that financial institutions communicate to Caisse des dépôts; they are based on holders' or subscribers' family names and first names, dates of birth and, where necessary, dates of death. At end September 2018, 1.5 million searches had been carried out on the site and over 125,000 requests for restitution had been received, all of which testifies to the system's merit.*

*A contact centre providing enquirers with assistance and information has been set up to support the site. At end September 2018, it had received over 120,000 phone calls and 30,000 emails.*

*The Court noted that “A good many reliability improvement projects are currently being implemented by banks and insurers”. Caisse des Dépôts’ capacity to return funds largely depends on the comprehensiveness and accuracy of regulatory data provided by financial institutions, and, alongside such projects, it is committed to continuing with optimisation of service delivery in order to facilitate searches.*

#### **Optimisation of management**

*Caisse des Dépôts has introduced a dematerialised form of management suited to the volumes processed.*

*Only a few (9%) repayment requests are sent by letter, mostly by individuals who do not have Internet. They also come from legal entities and associations or are to do with specific products such as capitalisation bonds for which online services have not been developed due to the current low number of requests. We have found a way of aligning processing of letters with that of requests on the Cicalade website: systematic scanning of incoming letters and integration of such requests into the management tool.*

*As regards processing and checking procedures, they have been modified in the light of acquired experience. However, in order to reduce the time it takes to reply to repayment requests, of which there are far more than initially estimated, a continuous “management process” optimisation project is currently underway.*

*In addition, Caisse des Dépôts is in regular contact with the General Directorate of the Treasury with regard to requests for legislative and regulatory changes that would also enable simplification of management and cut down processing times.*



***Protection of savings and the deposit interest rate***

*Caisse des dépôts is legally responsible for protection of sums entrusted to it and for ensuring the return of such deposits to beneficiaries or the State.*

*It does not bill for any expenses or receive any commission of whatever kind for management, conservation or restitution of deposits, which provides protection to savers, and guarantees the return of all capital deposited.*

*It should be borne in mind that deposits at Caisse des Dépôts of sums from inactive bank accounts and dormant company savings plans and life-insurance policies puts a term to the policies and accounts they come from.*

*In line with the Court's recommendation and following a favourable opinion from the Supervisory Commission on 21 November 2018, Caisse des Dépôts proposes to set the interest rate on sums deposited with it at 0.30%. The rate results from convergence of (i) an asset-based approach consisting of assessing such deposits' replacement rate after deducting management costs borne by Caisse des Dépôts and (ii) a liability-based approach based on such deposits' interest rates before their transfer to Caisse des Dépôts.*

***Extension of the scope of dormant assets***

*As the Court says, "The system has not yet reached its cruising speed", and "the Law should apply to all life-insurance and savings products (apart from exceptions expressly provided for). Practice has revealed difficulties in applying it in certain cases, requiring modifications in legislation and improvements in banks' and insurers' internal management processes."*

*Caisse des Dépôts calls for clarification of the Law's scope in view of the many requests from stakeholders, and would like to see legislative and regulatory modifications designed to facilitate return to beneficiaries. A number of repayment requests raise problems in interpreting current legislation. Caisse des Dépôts points out that repayment can only be made in capital. It is not an insurer and cannot pay annuities as provided for at the end of certain products.*

*Caisse des Dépôts draws the Court's attention to the need for a timeframe for implementing an expansion of the scope of Law no.2014-617 of 13 June 2014 bearing on inactive bank accounts and dormant life-insurance, given the regulatory and organisation prerequisites. An implementation schedule incorporating a preparation period for financial actors is necessary, and should include an estimation of the expected volume and unit cost of processing repayment requests. A project phase with financial institutions and new IT developments will be required in order to incorporate these new products under satisfactory conditions, as they are guarantees of the fluidity of enquirers' pathways and controlled repayment times.*

---