The Autorité issues a favourable opinion, subject to several reservations, on the operating procedures of the “France Agriclimat” economic interest group

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Background

The *Autorité de la concurrence* was consulted by the French Minister of the Economy, Finance and Industrial and Digital Sovereignty regarding the creation of a mutual reinsurance group for agricultural climate risks, the "France Agriclimat" economic interest group (EIG).

Under the law, the approval of the agreement establishing such a group can only granted once the *Autorité* has issued its opinion and, in particular, "*if the* Autorité*'s opinion is favourable or, failing that, if the agreement has been amended in response to the reservations expressed by the* Autorité".

France Agriclimat is a mutual reinsurance group with compulsory membership for all insurers distributing subsidised multi-risk climate crop insurance products. Its two missions are, first, to pool 65% of insured risks and, second, to manage and reprocess claims data.

The *Autorité* has today issued a favourable opinion, subject to several reservations, notably concerning group membership and operation conditions and the procedures for exchanging information within the group.

The economic interest group project submitted for the *Autorité's* opinion

- **2021 and 2022 opinions**

This is the third time the ***Autorité*** has had the opportunity to issue an opinion on the multi-risk climate crop insurance (MRC) sector in France. In Opinion 21-A-16, the ***Autorité*** was consulted regarding several measures aimed at promoting better risk pooling among insurers and enabling them to gain a better understanding of the various risks involved, thereby avoiding attrition from the MRC insurance offer, which would disproportionately affect farmers.

In 2022, the French Minister of the Economy consulted the ***Autorité*** regarding the provisions of a draft ordinance establishing a mutual reinsurance group in the MRC insurance sector. In Opinion 22-A-06, the ***Autorité*** issued a favourable opinion, subject to several reservations, such as clarification of the granularity used to disseminate claims analyses, strict supervision of group exclusions and an assessment of the group's performance within a reasonable timeframe.

- **The current group project**

The proposed group, France Agriclimat, has the same characteristics as those examined in the 2022 opinion, as it is a mutual reinsurance group with compulsory membership for all insurers that distribute subsidised MRC insurance products. Its missions are, first, to pool 65% of insured risks and, second, to manage and reprocess claims data.

The opinion focuses on the operating procedures of the group, particularly in light of the reservations expressed by the ***Autorité*** in its 2022 opinion.

Each member's participation in the group will depend on their share of total technical premiums. This will determine each member's voting rights within the group's governing bodies. This premium, corrected by an individual supervision

coefficient (ISC), will also be used to calculate each member's financial commitment to the group.

When it is established, the group will include Groupama, Pacifica, Abeille Assurances, Crédit Mutuel, Allianz, L'Étoile, Suisse Grêle and SI Insurance.

The *Autorité*'s reservations regarding the group's governance

Insurers are obliged to join the France Agriclimat group if they want to distribute MRC insurance policies. However, the *Autorité* recalls that the conditions of membership of a trade association can affect free competition if such membership is a condition for accessing the market or if it constitutes a competitive advantage, and if these membership conditions are defined or applied in a non-objective, non-transparent, or discriminatory manner.

- **Group access and exclusion conditions**

The *Autorité* considers that the access and exclusion terms are defined in an objective, transparent and non-discriminatory way, provided that the additions and clarifications made during the investigation and at the hearing are reflected in the group's final documentation.

- **Conditions of access to management bodies and the voting procedures**

With regard to voting at general meetings, the *Autorité* recommends amending the voting rules to ensure that no single member can hold more than one third of the votes at a general meeting. This would prevent a member being able to veto decisions made at an extraordinary general meeting, some of which are strategic to the group's operation.

With regard to access to the Board of Directors, the *Autorité* notes that candidate members must represent at least 2% of the group's technical premiums before

ISC; this threshold, which has no justification and does not apply to founding members, who are *ex officio* Board members. In addition to amending this rule, the *Autorité* would like to see more explicit mention of the application procedures for new members.

Furthermore, with regard to the exercise of voting rights on the Board of Directors, the *Autorité* stresses the need for these rights to be limited to a maximum of 25% of votes, to avoid any single member having a blocking minority. Lastly, the *Autorité* would like representatives of the French State to be invited to attend meetings of the group's Board of Directors as permanent, non-voting guests.

- **Monitoring of the group's operation**

More broadly, with regard to the group's existence, the *Autorité* stresses the importance of an assessment by the French government to verify the intended effects, particularly given the strong reservations expressed in the responses to the public consultation and during the hearing. The *Autorité* proposes that an interim assessment be carried out after two years, followed by a final assessment after four years, prior to any renewal.

The *Autorité*'s reservations on the information exchanged within the group

Members are required to provide France Agriclimat and the French government, via an independent third party, with a certain amount of individual data. The parties must limit information exchanges to what is required by the applicable provisions and take precautionary measures if commercially sensitive information is exchanged.

- **Collection and processing of information from members**

The *Autorité* notes that the data to be collected is clearly defined and described as strictly necessary for the operation of the group in the document on data security procedures. However, it finds contradictions in the documentation submitted regarding the recipient of the data and the entity responsible for reprocessing it.

Given the sensitivity of the collected data, and to limit any risk from a competition law point of view, the *Autorité* recommends the involvement of a trusted third party for all tasks.

- **The distribution of reprocessed information**

The *Autorité* notes that, at this stage, the procedures for returning data and disseminating claims analyses have not yet been defined. However, these procedures must be laid down before the group is set up, to ensure that they comply with competition law. In particular, it will be necessary to check that specific aggregation and anonymisation rules have been defined to avoid any risk of re-identification of individual member data, especially in geographic, crop or risk areas with very few active players.

Furthermore, the *Autorité* reiterates that other members must not receive the individual information of a member, with the exception of aggregated technical analysis results (once these have been anonymised).

Lastly, the *Autorité* underlines that - on the one hand - any behaviour by the insurers that would exceed the strict framework imposed by the law to the group formed could be subject to antitrust law. On the other hand, the Autorité also underlines that it can't be excluded that the impact of the aforementioned law may be challenged under EU law.

The *Autorité* has issued a favourable opinion on the group agreement and its appendices, creating the France Agriclimat mutual reinsurance group, subject

to the following reservations:

1. specify the terms and conditions of membership;

2. clarify the contribution of new members to the cost of setting up the group;

3. exclude any possibility of a member holding more than one third of the votes at the general meeting;

4. specify how new members can join the Board of Directors;

5. revise the criteria for new members to join the Board of Directors, as well as the conditions for loss of directorship, so that they do not discriminate between founder members (*ex officio* members) and new members;

6. exclude any possibility of a director holding 30% or more of the votes on the Board of Directors;

7. invite French government representatives to sit on the group's Board of Directors on a permanent basis;

8. clarify Article 22 of the group contract regarding the author of the assessment report and the conditions for dissolving the group in the event of a negative report;

9. revise Article 22 of the aforementioned contract with regard to the assessment of the negative nature of the report;

10. carry out a detailed competitive assessment of the group at the end of the four-year period, and an interim assessment at the end of a two-year period following the creation of the group;

11. specify that only the trusted third party receives group members' raw data;

12. use a trusted third party for all reprocessing group members' data;

13. prior to the creation of the group, provide for the return of data and the dissemination of claims analyses to ensure compliance with competition law; and

14. clarify that the only information distributed by France Agriclimat to members will be aggregated and anonymised data.

OPINION 25-A-10 OF 04 SEPTEMBER 2025

on the operating procedures of the “France Agriclimat” economic interest group

See the full text (in French)

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