



EUROPEAN COMMISSION
DG Competition

Case M.10786 - BNP PARIBAS / CACEIS / JV

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**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 21/12/2022

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EUROPEAN COMMISSION

Brussels, 21.12.2022
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PUBLIC VERSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

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**Subject: Case M.10786 – BNP PARIBAS / CACEIS / JV
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹ and Article 57 of the Agreement on the European Economic
Area²**

Dear Sir or Madam,

- (1) On 17 November 2022, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which BNP Paribas SA (“BNPP”, France) and CACEIS SA (“CACEIS”, France) will combine their respective business pertaining to corporate trust services (“CTS”) in

¹ OJ L 24, 29.1.2004, p. 1 (the ‘Merger Regulation’). With effect from 1 December 2009, the Treaty on the Functioning of the European Union (‘TFEU’) has introduced certain changes, such as the replacement of ‘Community’ by ‘Union’ and ‘common market’ by ‘internal market’. The terminology of the TFEU will be used throughout this decision.

² OJ L 1, 3.1.1994, p. 3 (the ‘EEA Agreement’).

France in a full-function joint venture within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation (the “Transaction”).³ BNPP and CACEIS are designated hereinafter as the “Notifying Parties” or the “Parties”.

1. THE PARTIES

- (2) **BNPP** is the parent company of the BNP Paribas Group, which is a global banking group active in retail banking, asset management and services, as well as corporate and investment banking. In France, CTS were until recently provided by BNPP through BNP Paribas Securities Services (“BP2S”). On 1 October 2022, BP2S was merged into BNPP and the CTS activities previously operated by BP2S were transferred to BNPP.
- (3) **CACEIS** is a subsidiary of Crédit Agricole SA (France). CACEIS offers a full range of financial products and services: execution, clearing, foreign exchange, securities lending and borrowing, custody, depositary bank and fund administration, fund distribution support, middle-office solutions and issuer services.

2. THE CONCENTRATION

- (4) Pursuant to a Framework Agreement entered into by the Notifying Parties on 3 August 2022, BNPP will contribute its CTS business in France to a corporate vehicle, CACEIS Corporate Trust SA (France), an existing legal entity currently fully-owned by CACEIS and ultimately controlled by Crédit Agricole SA. CACEIS Corporate Trust SA is the entity currently providing CTS in France on behalf of CACEIS. At the closing of the Transaction, each of BNPP and CACEIS will hold 50% of the share capital in CACEIS Corporate Trust SA. CACEIS Corporate Trust SA is the mere vehicle via which the JV will combine the Parties’ respective businesses pertaining to CTS (the “JV”).
- (5) In particular, for the purpose of the implementation of the JV (which will be renamed in the context of the Transaction):
- (a) BNPP will contribute to the JV the CTS activities in France previously operated by BNPP by a contribution in kind of a going concern, and
 - (b) Following an increase of the JV’s share capital, CACEIS and BNPP will each hold 50% of the JV’s shares and voting rights.

Joint control

- (6) Each of BNPP and CACEIS will hold 50% of the ownership interests and voting rights in the JV. The JV will be managed by the Board of Directors, consisting of [...] members appointed by BNPP and [...] members appointed by CACEIS. Decisions of the Board related to the adoption of the annual budget and business plan, material investments, as well as the appointment of senior management require the unanimous approval of each of the Parties.⁴ More precisely, the Board is the voting body of the JV and it will comprise [...] directors nominated by

³ Publication in the Official Journal of the European Union No C 450, 28.11.2022, p. 12.

⁴ Form CO, paragraphs 58 *et seqq.*

CACEIS and [...] nominated by BNPP. Decisions at the level of the Board will be subject to a quorum of at least [...] directors and will require the unanimous vote of the directors present or represented, being specified that no decision can be adopted by the Board if not approved by at least one of CACEIS' directors and one of BNPP's directors.⁵

- (7) Therefore, each of BNPP and CACEIS will exercise joint control over the JV within the meaning of Article 3(1)(b) of the Merger Regulation.

Full functionality

- (8) Similar to each of BNPP's CTS business (prior to the recent incorporation of BP2S into BNPP) and CACEIS' CTS business pre-Transaction, the JV will be a stand-alone entity, separate of its parent companies. It will have sufficient resources, including assets, finance and staff in order to operate independently on the market. The JV will have autonomous access to the market, will be in direct contact with its customers and suppliers and will operate under its own identity (name, logo, graphic charter, etc.). Should the JV need to purchase specific services or inputs from its parents, this would be done on an arm's length basis. Lastly, the JV will operate on a lasting basis.⁶
- (9) In light of the above, the JV will be full-function within the meaning of Article 3(4) of the Merger Regulation. The Transaction is thus a concentration within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation.

3. UNION DIMENSION

- (10) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million⁷ (BNPP: EUR [...] million, Crédit Agricole SA: [...] million). Each of them has a Union-wide turnover in excess of EUR 250 million (BNPP: EUR [...] million, Crédit Agricole SA: EUR [...] million), but not each of them achieves more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The Transaction therefore has a Union dimension.

4. LEGAL FRAMEWORK

- (11) Under Articles 2(2) and 2(3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position.

4.1. Horizontal effects

- (12) There are two main ways in which horizontal mergers may significantly impede effective competition, in particular by creating or strengthening a dominant position: (a) by eliminating important competitive constraints on one or more firms, which consequently would have increased market power, without resorting

⁵ Form CO, paragraphs 60 *et seqq.*

⁶ Form CO, paragraphs 66 *et seqq.*

⁷ Turnover calculated in accordance with Article 5 of the Merger Regulation.

to coordinated behaviour (non-coordinated effects); (b) by changing the nature of competition in such a way that firms that previously were not coordinating their behaviour, are now significantly more likely to coordinate and raise prices or otherwise harm effective competition (coordinated effects).⁸

4.1.1. *Non-coordinated effects*⁹

- (13) The most direct effect of the merger will be the loss of competition between the merging firms. For example, if prior to the merger one of the merging firms had raised its price, it would have lost some sales to the other merging firm. The merger removes this particular constraint. Non-merging firms in the same market can also benefit from the reduction of competitive pressure that results from the merger, since the merging firms' price increase may switch some demand to the rival firms, which, in turn, may find it profitable to increase their prices. The reduction in these competitive constraints could lead to significant price increases in the relevant market.
- (14) A number of factors, which taken separately are not necessarily decisive, may influence whether significant non-coordinated effects are likely to result from a merger. These include, among others:¹⁰
- (a) Merging firms have larger market shares: The larger the market share, the more likely a firm is to possess market power. The larger the addition of market share, the more likely it is that a merger will lead to a significant increase in market power.
 - (b) Merging firms are close competitors: Products may be differentiated within a relevant market such that some products are closer substitutes than others. The higher the degree of substitutability between the merging firms' products, the more likely it is that the merging firms will raise prices significantly and vice-versa.
 - (c) Customers have limited possibilities of switching supplier: Customers of the merging parties may have difficulties switching to other suppliers because there are few alternative suppliers or because they face substantial switching costs. Such customers are particularly vulnerable to price increases. The merger may affect these customers' ability to protect themselves against price increases.

4.1.2. *Coordinated effects*¹¹

- (15) In some markets the structure may be such that firms would consider it possible, economically rational, and hence preferable, to adopt on a sustainable basis a course of action on the market aimed at selling at increased prices. A merger in a concentrated market may significantly impede effective competition, through the

⁸ Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2004/C 31/03) ("Horizontal Merger Guidelines"), paragraph 22.

⁹ Horizontal Merger Guidelines, paragraphs 24, 28, 31-32.

¹⁰ Horizontal Merger Guidelines, paragraphs 26 *et seq.* Other factors include the likelihood that the competitors will increase supply if prices increase, the merged entity's ability to hinder expansion by competitors, and whether the merger eliminates an important competitive force.

¹¹ Horizontal Merger Guidelines, paragraphs 39-41.

creation or the strengthening of a collective dominant position, because it increases the likelihood that firms are able to coordinate their behaviour in this way and raise prices.

- (16) Coordination may take various forms. In some markets, the most likely coordination may involve keeping prices above the competitive level. In other markets, coordination may aim at limiting production or the amount of new capacity brought to the market. Firms may also coordinate by dividing the market, for instance by geographic area or other customer characteristics, or by allocating contracts in bidding markets.
- (17) Coordination is more likely to emerge in markets where it is relatively simple to reach a common understanding on the terms of coordination. In addition, three conditions are necessary for coordination to be sustainable. First, the coordinating firms must be able to monitor to a sufficient degree whether the terms of coordination are being adhered to. Second, discipline requires that there is some form of credible deterrent mechanism that can be activated if deviation is detected. Third, the reactions of outsiders, such as current and future competitors not participating in the coordination, as well as customers, should not be able to jeopardise the results expected from the coordination.

4.2. Non-horizontal effects¹²

- (18) A merger between companies which operate at different levels of the supply chain may significantly impede effective competition if such merger gives rise to foreclosure. Foreclosure occurs where actual or potential competitors' access to supplies or markets is hampered or eliminated as a result of the merger, thereby reducing those companies' ability and/or incentive to compete. Such foreclosure may discourage entry or expansion of competitors or encourage their exit.
- (19) The Non-Horizontal Merger Guidelines distinguish between two forms of foreclosure. Input foreclosure occurs where the merger is likely to raise the costs of downstream competitors by restricting their access to an important input. Customer foreclosure occurs where the merger is likely to foreclose upstream competitors by restricting their access to a sufficient customer base.
- (20) In assessing the likelihood of an anticompetitive input foreclosure scenario, the Commission examines, first, whether the merged entity would have, post-merger, the ability to substantially foreclose access to inputs, second, whether it would have the incentive to do so, and third, whether a foreclosure strategy would have a significant detrimental effect on competition downstream.

4.3. Cooperative effects of a joint venture

- (21) Lastly, under Article 2(4) of the Merger Regulation, where the creation of a full-function joint venture has as its object or effect the coordination of the competitive behaviour of undertakings that remain independent, such coordination shall be appraised under Article 101(1) and (3) TFEU.

¹² Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2008/C 265/07) (“Non-Horizontal Merger Guidelines”), paragraphs 17-18, and 29-30.

- (22) Under Article 2(5) of the Merger Regulation the Commission shall take into account in particular: (i) whether parent companies retain, to a significant extent, activities in the same market(s) as the joint venture or in a market which is downstream, upstream, or neighbouring; and (ii) whether the coordination which is the direct consequence of the creation of the joint venture affords the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products or services in question.
- (23) A restriction of competition under Article 101(1) TFEU is established when the coordination of the parent companies' competitive behaviour is likely and appreciable and results from the creation of the joint venture, be it as its object or its effect.

5. MARKET DEFINITIONS

5.1. Corporate Trust Services (“CTS”)

5.1.1. Product Market Definition

5.1.1.1. Introduction

- (24) Both BNPP and CACEIS are active in the provision of CTS in France.
- (25) CTS pertain to the management of a company's share capital (whether the company is publicly listed or not) and its debt, and includes, *e.g.*, the management of the registry of investors, the preparation and management of general meetings and the management of transactions on securities and related financial services.
- (26) In more detail, CTS include the management of the registry of shareholders, the organisation of stock exchange transactions for the shareholders who are registered directly with the issuing company (rather than indirectly with a financial intermediary), and the organisation and servicing of general meetings, including the publication of legal announcements, convocation of shareholders, monitoring of the quorum and processing of the votes and powers of attorney. CTS also include the management of the calculation and payment of dividends and interests and related tax collection, as well as the management of the issuance and movement of securities including the preparation of arrangements for the delivery of securities to the buyer and the payment of the price to the seller and related coordination with the various entities that manage the financial markets (*e.g.*, Euronext, Euroclear).
- (27) CTS are provided with respect to both investor shareholders and employee shareholders (*i.e.* individuals who are employed by the issuer and acquire shares through employee shareholding schemes). As regards employee shareholders in particular, CTS consist of the implementation of shareholding schemes, *i.e.* the collection of capital increases reserved to employees, the management of stock-option plans or free share allocation of share plans (*Plan d'attribution gratuite d'actions*), the management of company creator share subscription plans (*Bons de souscription de parts de créateur d'entreprise*) and the holding of securities account in the registry for company saving plans (*plan d'épargne entreprise*) for direct shareholdings.

- (28) In France, employee shareholders can hold share capital either directly, meaning that the employee is registered as a beneficial owner of the shares in the registry book of the company (“direct employee shareholding”), or indirectly, meaning that the employee acquires and holds units in a vehicle (most often the “*fonds communs de placement d'entreprise*” or “*FCPE*”) that is invested in the shares of the company (“indirect employee shareholding”).

5.1.1.2. The Notifying Parties’ view

- (29) The Parties submit that a distinction should be made between (i) CTS related to investor (who are registered directly with the issuing company or indirectly with a financial intermediary) shareholding and (ii) CTS related to employee shareholding.¹³ This is because the two services require different tools and skills, are typically provided by separate suppliers, are based on separate tender procedures, and companies tend to have different business teams to interact with CTS providers for investor shareholding and for employee shareholding.
- (30) Within **CTS related to investor shareholding**, the Parties consider that it could be possible to make a distinction between listed and unlisted companies.¹⁴ This is because (i) on the demand side, the requirements of listed and unlisted companies differ with regard to the complexity of their registrar activities and (ii) on the supply side, providing CTS to listed companies requires affiliation with Euroclear.¹⁵ In addition, the Notifying Parties also submit that there is no need for further segmentation by type of services included within CTS (*e.g.* registrar services, general meetings and transactions on securities), because CTS providers typically provide all types of services, and customers typically procure at least two types of services in the context of the same tender. Finally, the Notifying Parties submit that a further segmentation based on the size of a (listed) company is not warranted as the CTS required are the same regardless of whether the listed company is a large, mid- or low- capitalisation company.¹⁶
- (31) Within **CTS for employee shareholding**, the Parties consider that a distinction should be made between (i) direct employee shareholding (*i.e.* where employees can acquire and hold shares directly with the registrar) and (ii) indirect employee shareholding (*i.e.* where employees can acquire shares through subscription of units of a collective investment vehicle and hold units of such vehicle).¹⁷ This is because these services are tendered separately, provided by different providers, and the providers are subject to different regulatory requirements.
- (32) The Notifying Parties further submit that companies can also manage their CTS needs (i) in-house or (ii) use the services of smaller players such as notaries, accounting firms and law firms, and that therefore these alternatives should be part of the market for the provision of CTS.¹⁸ The Parties put forward that a large

¹³ Form CO, paragraphs 183 *et seqq.*

¹⁴ Form CO, paragraphs 197 *et seqq.*

¹⁵ Euroclear is a provider of Financial Market Infrastructure (FMI) services and deals with the settlement of securities transactions as well as the safekeeping of these securities. Euroclear France is the central securities depository of France.

¹⁶ Form CO, paragraphs 204 *et seqq.*

¹⁷ Form CO, paragraphs 215 *et seqq.*

¹⁸ Form CO, paragraphs 248, 250 and 264 *et seqq.*

number of listed companies, *i.e.* almost 25% of those listed on Euronext, manage their CTS in-house or through such smaller alternative providers, and that the vast majority of unlisted companies handle their CTS needs in-house.¹⁹

5.1.1.3. The Commission's assessment

- (33) The Commission has not previously assessed the market(s) for CTS.
- (34) The Commission's investigation aimed at clarifying whether different possible segmentations within CTS could constitute separate product markets.

CTS for indirect employee shareholding vs all other CTS

- (35) Based on the market investigation results, the Commission considers that CTS for indirect employee shareholding differ in certain important respects from other CTS, namely CTS for investor shareholding and CTS for direct employee shareholding.
- (36) According to a majority of customers, CTS for indirect employee shareholding are typically sourced separately from different providers and based on different tenders than CTS for direct employee shareholding.²⁰ Customers explained that this is because CTS for indirect employee shareholding require different management services and are provided by suppliers dealing with employee savings, such as Amundi and Natixis Interepargne, who are dedicated to this activity and do not provide CTS for direct employee shareholding or for investor shareholding.²¹ Indirect employee shareholders do not hold shares directly in the company as direct employee shareholders, but own units in an investment vehicle.²²
- (37) The market investigation results were inconclusive regarding whether CTS providers are generally able to provide and whether they generally provide CTS for both direct and indirect employee shareholding and whether a company providing CTS for direct employee shareholding would be able to start providing for indirect employee shareholding.²³
- (38) In any event, the JV will not be active in the provision of CTS for indirect employee shareholding. Therefore, in this case, a plausible market for CTS for indirect employee shareholding cannot be an affected market, and CTS for indirect employee shareholding will not be considered further in this decision.

CTS for listed vs CTS for unlisted companies

- (39) Based on the following considerations, the Commission considers that CTS for listed companies form a separate market from CTS for unlisted companies.
- (40) As regards demand-side substitutability, a clear majority of both customers and competitors consider that CTS requirements of listed companies differ materially

¹⁹ Form CO, paragraphs 264 *et seqq.*, and Form CO, paragraph 330.

²⁰ Replies to Questionnaire Q2 to Customers, Questions 6.2 and 10; Minutes of a call with a customer, dated 12 October 2022.

²¹ Replies to Questionnaire Q2 to Customers, Questions 6 and 10; Minutes of a call with a customer, dated 21 October 2022.

²² See paragraph 31 above.

²³ Replies to Questionnaire Q2 to Customers, Question 10.

from those of unlisted companies in terms of, e.g. regulatory framework, complexity of the services, and IT tools requirements.²⁴ Customers explained that “[l]isted companies are more complex to handle in terms of regulations, number of shareholders”, “[r]egulations applicable to listed companies are much more stringent and more complex”, “[l]isted companies are subject to specific and complex regulatory environment (that does not apply in full to unlisted companies) which is necessary for a CTS provider to perfectly know and manage”, and that “[...] listed companies have a larger number of shareholders, which generates needs in IT tools, human resources and expertise (for example regarding equity or tax matters).”²⁵

- (41) In light of this, listed companies would not consider obtaining CTS for investor shareholding from a provider that does not have material experience with listed companies,²⁶ because a proven track record with listed companies and solid knowledge of applicable regulation are considered important factors to source CTS for listed companies in France.²⁷ Listed customers explained that “[e]xperience of stock market regulations is a “must have” when considering a CTS provider,” “[we] select our providers on such sensitive topics based on their credentials and would trust only providers whose core activity is with listed companies,” “[d]ealing with listed companies requires specialist skills and proven experience,” and “[we] [n]eed to have full confidence in the CTS provider.”²⁸ Furthermore, a few customers pointed to the riskiness of engaging a provider without significant experience with listed companies, explaining that “[...] obtaining CTS for investor shareholding from a CTS provider without material experience with listed companies is very risky,” “[a]s a listed company we do not take any risk relating to the management of our shareholders,” and “[a]s a listed company, [we] can not take the risk of any issue related to the management of its share capital.”²⁹
- (42) As regards supply-side substitutability, the market investigation showed that providers of CTS for investor shareholding serving only unlisted companies would not be able to start serving listed companies within a short period of time and without significant investments in IT infrastructure and human capital.³⁰
- (43) In light of the above and for the purposes of this decision, the Commission considers that CTS to listed companies form a market separate from CTS to unlisted companies. Given that the market for CTS to unlisted companies (and any plausible segments) is not an affected market, it will not be further discussed in the present Decision.

²⁴ Replies to Questionnaire Q1 to Competitors, Questions 7 and 12, and Questionnaire Q2 to Customers, Questions 7 and 11.

²⁵ Replies to Questionnaire Q2 to Customers, Question 7.1; Minutes of a call with a customer, dated 12 October 2022; Minutes of a call with a customer, dated 21 October 2022.

²⁶ Replies to Questionnaire Q2 to Customers, Question 7.2, and Questionnaire Q1 to Competitors, Question 7.2.

²⁷ Replies to Questionnaire Q2 to Customers, Question 7.2.1.

²⁸ Replies to Questionnaire Q2 to Customers, Question 7.2.1.

²⁹ Replies to Questionnaire Q2 to Customers, Question 7.2.1.

³⁰ Replies to Questionnaire Q1 to Competitors, Questions 8 and 8.1.

CTS for investor vs direct employee shareholding

- (44) The results of the market investigation are inconclusive as to whether CTS for investor shareholding and CTS for direct employee shareholding form part of the same or separate markets.
- (45) As regards demand-side substitutability, a majority of customers responding to the Commission's market investigation view CTS for employee shareholding as an add-on to CTS for investor shareholding.³¹ The Commission's investigation revealed that, although CTS for investor shareholding and CTS for direct employee shareholding are similar with respect to, *e.g.* the organisation or general meetings and registrar services,³² CTS for direct employee shareholding require more direct engagement from the CTS personnel and more specific advisory services (*e.g.* tax).³³ As one customer explained: *"Although [CTS for direct employee shareholding and CTS for investor shareholding] [are] considered as two different services, the provision of CTS services to general shareholders and employee shareholders are understood as equivalent in nature and workflow. [...] The only difference between these two kinds of services is the significant assistance provided to employee shareholders, having more specific demands (e.g. asking more direct questions to [the customer's] in-house team) and often being subject to specific tax regimes that require blocking and/or specific tracking of the employee's shares."*³⁴ Another customer explained that *"all CTS actors have dedicated teams for managing employee shareholders: global standard operations are processed by the standard teams and specific employee shareholders processes are handled by the dedicated teams working in liaison with the Issuer's HR Teams."*³⁵ Another customer indicates *"For direct holding of shares (of a dedicated group employing the employees), there is little to no difference between a non-employee and an employee shareholder in the management of account, [...] Even if issuers are both clients of those CTS providers, those activities are managed via different tenders, offers and processes"*.³⁶
- (46) Further, a majority of customers stated that they source CTS related to investor shareholding and CTS related to employee shareholding together from the same supplier, while some said they do not.³⁷ However, customer feedback was inconclusive as to whether customers source these services based on the same or different tenders.³⁸ It appears from the Commission's investigation that some of the Parties' customers for CTS related to investor shareholding do not source CTS for

³¹ Replies to Questionnaire Q2 to Customers, Question 6.

³² However, when CTS for investor shareholding and CTS for direct employee shareholding are sourced from two different providers, there is a need for two parallel shareholders registries (Form CO, paragraph 187).

³³ Replies to Questionnaire Q1 to Competitors, Question 6, and Questionnaire Q2 to Customers, Question 6; Minutes of a call with a customer, dated 12 October 2022.

³⁴ Reply to Questionnaire Q2 to Customers, Question 6.

³⁵ Reply to Questionnaire Q2 to Customers, Question 6.

³⁶ Reply to Questionnaire Q2 to Customers, Question 6.

³⁷ Replies to Questionnaire Q1 to Competitors, Question 6, and Questionnaire Q2 to Customers, Question 6; Minutes of a call with a customer, dated 12 October 2022; and Minutes of a call with a customer, dated 15 November 2022.

³⁸ Replies to Questionnaire Q2 to Customers, Question 6. A majority of competitors' replies to Questionnaire Q1 to Competitors, Question 6, indicated that the two services are often provided by the same suppliers on the basis of the same tender.

direct employee shareholding from the Parties or they do not source CTS for direct employee shareholding at all.³⁹

- (47) As regards supply-side substitutability, a majority of competitors responding to the Commission's market investigation consider that the provision of CTS for investor shareholding and CTS for employee shareholding require different tools and/or skills.⁴⁰ However, most respondents consider that CTS providers are generally able to provide both CTS for investor shareholding and CTS for direct employee shareholding.⁴¹ A slight majority of competitors consider it possible for a company providing only CTS for employee shareholding to be able to start providing CTS for investor shareholding (and vice versa) within a short period of time and without a significant investment, whereas nearly as large a number of competitors considered this would not be possible.⁴²
- (48) In relation to the Notifying Parties' claim that CTS needs can be sourced also in-house, the market investigation results revealed that in-sourcing of CTS activities in general does not provide a credible alternative to sourcing CTS from an external provider. Specifically, as regards the in-house provision of CTS for listed companies, some companies currently in-source some of their CTS. However, listed customers that currently source CTS from an external provider consistently do not consider switching to performing CTS in-house as a realistic possibility.⁴³ This is because in-house provision would require large and continuous investments in IT infrastructure and the hiring of a full team with relevant experience.⁴⁴ Furthermore, an in-house CTS department would likely still need to rely on certain (*e.g.* IT) services provided by a third party. Therefore, for the purposes of the product market definition, in-house sourcing of CTS will not be considered as part of the relevant product market. The relevance of in-house sourcing of CTS to the competitive assessment will be further detailed below in Section 6.1.2.2.
- (49) In any case, the Commission considers that for the purposes of this decision, it is not necessary to conclude on whether the markets for CTS for investor shareholding and for CTS for direct employee shareholding form part of the same or separate product markets, since competition concerns are unlikely to arise under any plausible product market definition.

CTS for investor shareholding

- (50) As to the possibility for a sub-segmentation of CTS related to investor shareholding by service type, the market investigation confirms that such segmentation is not warranted, and all types of services (*i.e.* registrar services, services related to

³⁹ Replies to Questionnaire Q2 to Customers, Question 6, and the Notifying Parties' reply to RFI 7, dated 30 November 2022, Annexes 22 and 23.

⁴⁰ Replies to Questionnaire Q1 to Competitors, Question 6.

⁴¹ Replies to Questionnaire Q1 to Competitors, Question 6, and Questionnaire Q2 to Customers, Question 6.

⁴² Replies to Questionnaire Q1 to Competitors, Question 6.

⁴³ Replies to Questionnaire 1 to Competitors, Question 9.1 and Questionnaire 2 to Customers, Question 8.1.

⁴⁴ Minutes of a call with a customer, dated 21 October 2022, Minutes of a call with a customer, dated 12 October 2022, Minutes of a call with a customer, dated 13 October 2022, and Minutes of a call with a customer, dated 12 October 2022.

general meetings and operations on securities and related financial services) should form part of the same market.

- (51) The majority of the responding customers source all types of services related to investor shareholding (*i.e.* registrar services, services related to general meetings and operations on securities and related financial services) together from the same provider⁴⁵. On the supply side, CTS providers generally provide all these types of services.⁴⁶ As one customer explained, “*CTS providers usually try to propose those services as a global bundle as it allows to seamlessly transfer the data from one service to another.*”⁴⁷ Another customer pointed out that these services “*are linked and it seems more efficient to use the same provider.*”⁴⁸ According to a competitor, “[m]ost of the time, a Corporate decides to select a CTS supplier providing all different types of services and concentrates all the activities with the CTS selected – it’s more convenient, more efficient, less expensive.”⁴⁹

5.1.1.4. Conclusion

- (52) For the purposes of this decision, as the Transaction does not give rise to serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement under any plausible product market definition, the exact scope of the product market for the provision of CTS can be left open. The competitive assessment, therefore, will be conducted for any plausible product market definition, namely in a market for CTS to listed companies (encompassing both CTS for investor shareholding to listed companies and CTS for direct employee shareholding to listed companies), in a market for CTS for investor shareholding to listed companies, and in a market for CTS for direct employee shareholding to listed companies.

5.1.2. Geographic Market Definition

5.1.2.1. The Notifying Parties’ view

- (53) The Parties submit that the market for CTS related to investor shareholding and related to direct employee shareholding, as well as all plausible segments thereof, are national in scope.⁵⁰ This is because each Member State has specific regulations in place, different stock exchanges and central depository, as well as different systems in terms of delivery settlement, keeping of accounts etc.⁵¹
- (54) As regards CTS for investor shareholding, the Parties submit that, although there is no legal requirement for listed companies in France to use CTS providers established in France, in practice this is generally the case. Companies listed on Euronext Paris are *de facto* admitted to Euroclear France and, consequently, providers of CTS for investor shareholding for these companies must be affiliated

⁴⁵ Replies to Questionnaire Q1 to Competitors, Question 10, and Questionnaire Q2 to Customers, Question 9.

⁴⁶ Replies to Questionnaire Q1 to Competitors, Question 10, and Questionnaire Q2 to Customers, Question 9.

⁴⁷ Reply to Questionnaire Q2 to Customers, Question 9.

⁴⁸ Reply to Questionnaire Q2 to Customers, Question 9.

⁴⁹ Reply to Questionnaire Q1 to Competitors, Question 10.

⁵⁰ Form CO, paragraphs 231 *et seqq.*

⁵¹ Form CO, paragraph 232.

to Euroclear France. Also, the provision of CTS for investor shareholding requires a thorough knowledge of the applicable French rules, which mostly operators based in France have developed. However, the Parties note that the expected standardisation of financial market through the adoption of EU legislation will likely facilitate the provision of CTS across the EEA.⁵²

- (55) As regards CTS for direct employee shareholding, the Parties are of the view that companies tend to choose a local provider established in the country where the relevant employees are located. Although there is no regulatory requirement to do so, local providers are generally best placed to navigate the applicable local tax and accounting regulations. However, the Parties consider that in practice companies set up international direct employee shareholding plans covering multiple countries, which have certain features that are common to all countries and certain local specificities, and that this way they may allocate CTS for direct employee shareholding related to both French and non-French employees to a single provider or to different providers.⁵³

5.1.2.2. The Commission's assessment

- (56) Based on the results of its market investigation, the Commission considers that the market for CTS is national in scope.
- (57) A clear majority of customers and competitors consider that procuring CTS for listed companies is only possible from providers located in France because of the specific national regulatory environment and customers' linguistic preferences.⁵⁴ One customer explained that “[we] would not consider CTS providers based outside of France due to linguistic, cultural and, more importantly, logistical reasons. National regulatory requirements are specific and require tailored-made solutions, which cannot be provided by non-French companies.”⁵⁵ Another customer explained that “[t]he use of the French language saves a lot of time and avoids misunderstandings. Practical knowledge of the domestic stock market environment is also important.”⁵⁶
- (58) A majority of competitors confirmed that competition for the provision of CTS takes place at a national level⁵⁷ and that CTS providers not serving companies in France would not be able to start doing so in a short period of time and without a significant investment.⁵⁸ One competitor explained this to be because “national regulations create market barriers.”⁵⁹

5.1.2.3. Conclusion

- (59) For purposes of this decision, the Commission therefore considers the market for CTS and its possible further segments to be national in scope.

⁵² Form CO, paragraphs 234-237.

⁵³ Form CO, paragraphs 238-241.

⁵⁴ Replies to Questionnaire Q2 to Customers, Question 12; Minutes of a call with a customer, dated 12 October 2022; Replies to Questionnaire Q1 to Competitors, Question 15.

⁵⁵ Replies to Questionnaire Q2 to Customers, Question 12.

⁵⁶ Replies to Questionnaire Q2 to Customers, Question 12.

⁵⁷ Responses to Questionnaire Q1 to Competitors, Question 13.

⁵⁸ Responses to Questionnaire Q1 to Competitors, Question 14.

⁵⁹ Responses to Questionnaire Q1 to Competitors, Question 13.

5.2. Software

5.2.1. Product Market Definition

- (60) BNPP holds a majority shareholding (66.6%) in Services Logiciels d'Intégration Boursière (“SLIB”), a joint venture with Natixis. SLIB has developed two middleware software products (*i.e.* integration platforms) in the banking and financial sector, namely RegistrAccess and VotAccess.
- (61) In addition, CACEIS –to be replaced by the JV post-Transaction⁶⁰– is one of the five members of GIE Registrar (the “GIE”) in France. The GIE is a registered company, created in 1996, under the legal name of “GIE Registrar”, where GIE stands for “*Groupement d’Intérêt Économique*”, an economic interest group through which its members cooperate for a given purpose. The GIE owns a software (middleware software product), developed at the request of its members by an IT development provider, whose basic function is to handle the registries in the CTS activities. In order to be functional, this software has to be embedded in the specific IT systems of each member of the GIE, which will use it as an input to provide their CTS offering. The GIE currently has five members: CACEIS, Air Liquide, Gecina, Bouygues and CIC Marché (“CIC”), each of them having an equal ownership in the GIE. This software is exclusively reserved for the use of the GIE members and is not made available on the market. The GIE members agreed to split equally among themselves the basic costs of the software, as well as the costs relating to the software developments, as long as all the GIE members agree on conducting these developments.⁶¹
- (62) In previous decisions in *Computer Sciences Corporation / iSOFT Group*⁶² and *IMB/ INF Business of Deutsche Lufthansa*,⁶³ the Commission considered a segmentation of software based on (i) the different functionalities of the software and the sector concerned, and (ii) the end uses offered by that particular software.
- (63) As regards functionality, the Commission found that distinctions in the software industry are generally made between (i) infrastructure software (*i.e.* servers and databases); (ii) middleware (*i.e.* integration platforms); (iii) application software and office software; and (iv) operating/browser software. As regards end uses, the software industry was generally segmented between high and low-end or between high-end, mid-range and low-end. The exact product market definition was ultimately left open.
- (64) With regard to middleware, in *Oracle / Sun Microsystems*⁶⁴ and *Oracle / BEA*,⁶⁵ the Commission investigated whether all types of middleware belonged to a single market or needed to be further segmented according to the end use of the product.

⁶⁰ The Notifying Parties’ reply to RFI 10, dated 5 December 2022, Question 7.

⁶¹ The Notifying Parties’ reply to RFI 8, dated 29 November 2022, Questions 1, 2, 5, and 7.

⁶² Case COMP/M.6237 – *Computer Sciences Corporation / iSoft Group*, decision of 20 June 2011, paragraphs 22 *et seqq.*

⁶³ Case COMP/M.7458 – *IBM/ INF Business of Deutsche Lufthansa*, decision of 15 December 2014, paragraphs 34 *et seqq.*

⁶⁴ Case COMP/M.5529 – *Oracle / Sun Microsystems*, decision of 21 January 2010, paragraphs 760 *et seqq.*

⁶⁵ Case COMP/M.5080 – *Oracle / BEA*, decision of 29 April 2008, paragraph 10.

Ultimately, the market definition was left open. In *DELL / EMC*,⁶⁶ the Commission again considered whether middleware should be further segmented on the basis of the end use of the product, and whether the latter segmentation should be sub-segmented based on the hardware or other components it is paired with (*e.g.* servers, storage systems and networking), although ultimately leaving the market definition open.

- (65) The Notifying Parties submit that both RegistrAccess and VotAccess can be defined as middleware software products (*i.e.* integration platforms) for application in the banking and financial sector. With regard to a plausible further segmentation on the basis of the end use of the two platforms, the Notifying Parties submit that they can be qualified as application servers. The Notifying Parties further explain that RegistrAccess and VotAccess are platforms that provide the relevant infrastructure to allow their participants to perform specific applications, such as the exchange of transaction orders of unlisted securities, and the collection of voting instructions by the shareholders of companies, respectively. In any event, the Notifying Parties submit that the exact product and geographic market definition can be left open.⁶⁷
- (66) With regard to the GIE software, the Parties consider that the relevant market definition can be left open, although they explain that the product market for the software should encompass all solutions that can be used to handle registries. The Notifying Parties further explain that the software is designed to handle the registries within the provision of CTS for investor shareholding to listed companies in France.
- (67) The Commission's file and the market investigation results do not contain any indication that would suggest departing from the Commission's previous practice and the views of the Notifying Parties.
- (68) In any event and in light of the outcome of the market investigation, the Commission considers that, for the purposes of this decision, as regards the aforementioned software, the precise product market definition can be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement under any plausible product market definition.

5.2.2. *Geographic market definition*

- (69) In previous decisions, the Commission took the view that the geographic scope of the market for software was at least EEA-wide. In relation to middleware in *Oracle / Sun Microsystems*⁶⁸ and in *DELL / EMC*,⁶⁹ the Commission considered the relevant geographic market for the overall middleware market and sub-segments thereof to be worldwide. However, the Commission has also noted in the past that national regulations may affect the geographic scope of the software market, as

⁶⁶ Case M.7861 – *DELL/ EMC*, decision of 29 February 2016, paragraphs 61 *et seqq.*

⁶⁷ The Notifying Parties' reply to RFI 7, dated 30 November 2022, Question 2.

⁶⁸ Case COMP/M.5529 – *Oracle / Sun Microsystems*, decision of 21 January 2010, paragraph 769.

⁶⁹ Case M.7861 – *DELL/ EMC*, decision of 29 February 2016, paragraphs 68 *et seqq.*

there are geographic variations in the nature of each end application the software caters for.⁷⁰

- (70) The Notifying Parties, while arguing that the exact scope of the geographic market can be left open since the Transaction does not raise serious doubts regardless of the exact geographic market definition, they also submit that the geographic scope of the market for software related to CTS in France may be affected by certain elements specific to France, due to national regulations affecting for example the listing process, voting systems, shareholders' obligations, exchange of transaction orders of unlisted securities, etc.⁷¹
- (71) The Commission's file and the market investigation results do not contain any indication that would suggest departing from the views of the Notifying Parties regarding the narrower national geographic scope of CTS-related software. In particular, in view of the strong national character of the proposed Transaction, the Commission considers the market to be most likely national in scope.
- (72) In any event and in light of the outcome of the market investigation, the Commission considers that, for the purposes of this decision, the precise geographic market definition of software can be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement under any plausible geographic market definition (*i.e.* national, EEA-wide or worldwide).

5.3. Banking Services

5.3.1. Product market definition

- (73) Post-Transaction, the Notifying Parties will retain their activities in banking services, including corporate and investment banking.
- (74) In its decisional practice, the Commission has considered the following relevant markets in the banking sector: (i) retail banking, (ii) corporate banking, (iii) investment banking, (iv) leasing, (v) factoring, (vi) payment cards, (vii) financial market services, and (viii) asset management.⁷²
- (75) Corporate banking comprises banking services to large corporate customers ("LCCs") and smaller commercial clients such as small and medium-sized enterprises ("SMEs"). In terms of corporate banking, the Commission has identified separate product markets for LCCs and SMEs. The Commission has also considered and left open the possibility of separate product markets for services such as deposits and savings, loans, domestic payment services / current accounts, foreign payment services and cash management services.⁷³

⁷⁰ Case COMP/M.6237 – *Computer Sciences Corporation / iSoft Group*, decision of 20 June 2011, paragraphs 33-36.

⁷¹ The Notifying Parties' reply to RFI 7, dated 30 November 2022, Question 2.

⁷² Case M.8553 – *Banco Santander / Banco Popular Group*, decision of 8 August 2017, paragraphs 10-13.

⁷³ Case M.10378 – *VUB / Slovenska Sporitelna / Tatra Banka / 365.Bank / CSOB / JV*, decision of 26 April 2022, paragraph 42; Case M.8553 – *Banco Santander / Banco Popular Group*, decision of

- (76) As far as investment banking is concerned, it includes services such as advice on the financial aspects of mergers and acquisitions, initial public offerings and arranging new issues of stocks and bonds, excluding the underwriting of such operations. In prior decisions, the Commission has analysed the market for investment banking as a whole, while identifying the following possible market segments: (i) merger and acquisition advice, (ii) capital markets business such as Initial Public Offering and share issues advice, and (iii) services relating to arranging new issues as stocks and bonds. The Commission ultimately left the product market open.⁷⁴
- (77) The Notifying Parties agree with the Commission's decisional practice and submit that CTS is mostly relevant to the following two plausible market segments within investment banking: merger and acquisition advice, and capital market business.⁷⁵
- (78) The Commission's file and the market investigation results do not contain any indication that would suggest departing from the Commission's previous practice and the views of the Notifying Parties.
- (79) In any event, the Commission considers that, for the purposes of the present decision, the precise product market definition for banking services, and in particular corporate and investment banking, can be left open, as the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement under any plausible product market definition.

5.3.2. *Geographic market definition*

- (80) With respect to corporate banking, the Commission has previously found that services provided to SMEs should be defined nationally, whereas services provided to LCCs may be national or broader than national in scope, although ultimately leaving the geographic market definition open.⁷⁶ In terms of investment banking, the Commission has considered the relevant geographic market to be national or international (EEA-wide or global) in scope, but ultimately left the geographic market open.⁷⁷
- (81) The Notifying Parties did not explicitly express a view regarding the geographic market definition of corporate and investment banking, although ultimately assessing further market segmentations within investment banking on both national and European level.⁷⁸

8 August 2017, paragraphs 18-20; Case COMP/M.5384 – *BNP Paribas / Fortis*, decision of 3 December 2008, paragraphs 11-13.

⁷⁴ Case M.8837 – *Blackstone / Thomson Reuters F&R Business*, decision of 20 July 2018, paragraphs 38-40; Case COMP/M.5384 – *BNP Paribas / Fortis*, decision of 3 December 2008, paragraph 68.

⁷⁵ Form CO, paragraphs 524-537.

⁷⁶ Case M.10378 – *VUB / Slovenska Sportelna / Tatra Banka / 365.Bank / CSOB / JV*, decision of 26 April 2022, paragraphs 47-49; Case M.8553 – *Banco Santander / Banco Popular Group*, decision of 8 August 2017, paragraphs 21-22; Case COMP/M.5384 – *BNP Paribas / Fortis*, decision of 3 December 2008, paragraph 72.

⁷⁷ Case M.8837 – *Blackstone / Thomson Reuters F&R Business*, decision of 20 July 2018, paragraph 39; and Case COMP/M.5384 – *BNP Paribas / Fortis*, decision of 3 December 2008, paragraph 78.

⁷⁸ Form CO, paragraphs 542 *et seqq.*

- (82) The Commission’s file and the market investigation results do not contain any indication that would suggest departing from the Commission’s previous practice.
- (83) In any event, for the purposes of the present decision, the exact geographic market definition can be left open, as no serious doubts as to the Transaction’s compatibility with the internal market or the functioning of the EEA agreement arise under any plausible geographic market definition (*i.e.* national, EEA-wide or worldwide).

6. COMPETITIVE ASSESSMENT

6.1. CTS to listed companies in France

- (84) The Parties’ activities give rise to horizontal overlaps in all plausible markets for CTS in France, with the exception of CTS for indirect employee shareholding where the JV will not be active and which will therefore not be discussed any further in this decision.
- (85) Horizontally affected markets arise in the plausible market for CTS to listed companies in France (excluding indirect employee shareholding) and in the two plausible narrower markets for:
- (a) CTS for investor shareholding in France; and
 - (b) CTS for direct employee shareholding in France.⁷⁹

6.1.1. The Parties’ activities

- (86) Both Parties provide CTS for investor shareholding and CTS for direct employee shareholding to listed companies in France.
- (87) *CTS for investor shareholding to listed companies.* The Parties’ and competitors’ market shares in the market for CTS for investor shareholding are included in Table 1 below. In this market, the combined entity will be the market leader with a market share of [40-50]%, with an increment of [10-20]% brought about by BNPP. The other two main players in this market are Société Générale Securities Services (“SGSS”) ([20-30]% share) and CIC ([10-20]% share).
- (88) The market shares are provided in terms of the number of companies served by each player. Given that this is a stock measurement, it is necessarily reported for a specific time (in this case 31 December 2020 and 30 April 2022). The market participants confirm that this is the standard metric used in the industry and the most reliable measure of each player’s competitive strength. Market shares based on sales, on the other hand, are according to one market participant not a reliable metric as revenues fluctuate greatly from one year to another, as they depend on largely one-off stock trading activities.⁸⁰

⁷⁹ The Notifying Parties submit that the market for CTS for direct employee shareholding to listed companies in France is not affected. However, as the Commission’s assessment did not fully confirm the Notifying Parties’ arguments in this respect (please see also Section 6.1.2.2.), the market is therefore considered affected for the purposes of this decision.

⁸⁰ Minutes of a call with a competitor, dated 9 November 2022.

Table 1: Market shares in CTS for investor shareholding to listed companies in France (excluding in-house activities)^{81,82}

Player	On 31 December 2020		On 30 April 2022	
	Number of companies	Market share	Number of companies	Market share
BNPP	[...]	[10-20]%	[...]	[10-20]%
CACEIS	[...]	[30-40]%	[...]	[30-40]%
<i>Combined</i>	[...]	<i>[40-50]%</i>	[...]	<i>[40-50]%</i>
SGSS	[...]	[20-30]%	[...]	[20-30]%
CIC	[...]	[10-20]%	[...]	[10-20]%
Euroclear	[...]	[0-5]%	[...]	[0-5]%
Others ⁸³	[...]	[10-20]%	[...]	[10-20]%
<i>Total</i>	[...]	<i>100%</i>	[...]	<i>100%</i>

Source: The Notifying Parties' Reply to RF19, dated 2 December 2022. The Notifying Parties' analysis based on publicly disclosed information.

- (89) The table excludes the provision of CTS in-house, as the market investigation revealed that in-sourcing of CTS activities in general does not provide a credible alternative to sourcing CTS from an external provider (see Section 6.1.2.2. below). If listed companies that perform their CTS for investor shareholding in-house were included, these would represent 27% of the companies on 31 December 2020 (in which case the Parties' combined share would be [30-40]%), and 25% of the companies on 30 April 2022 (in which case the Parties' combined share would be [30-40]%).
- (90) *CTS for direct employee shareholding to listed companies.* The Notifying Parties submit that their combined market share, post-Transaction, would remain below 20% in the hypothetical market for CTS for direct employee shareholding to listed companies, thus, not giving rise to an affected market. Specifically, as further detailed below, the Notifying Parties argue that the competitive landscape for CTS for direct employee shareholding to listed companies is much more diverse and dynamic, compared to CTS for investor shareholding to listed companies.⁸⁴ That is because companies listed in France usually retain several providers for their needs of CTS employee shareholding services, depending on the location of their employees, on implementation and the types of plans. In particular, the Parties' estimate that more than [...]% of BNPP's and CACEIS' CTS clients use one or several alternative providers to manage their direct employee shareholders plan. The Parties listed the following main alternative providers of CTS for direct employee shareholding (in addition to the Parties, SGSS and CIC): Banque Transatlantique, Globalshares (JP Morgan), Computershare, Shareworks/Solium by Morgan Stanley, Equiniti, Capital and Fidelity Investments.

⁸¹ The shares include all companies (French and non-French) listed on Euronext in France.

⁸² As explained above, these market shares are calculated based on the number of listed customers sourcing CTS for investor shareholding. In addition, the Notifying Parties indicate that there is no available public data to assess the size of the market in terms of value and the turnovers achieved by the various CTS providers. Finally, the Notifying Parties note that – even if they were able to calculate value-based market shares – they would not differ significantly from the market shares based on the number of customers.

⁸³ Others include companies for which the Notifying Parties were not able to identify their CTS provider. These include in part SGSS and CIC, as well as other providers.

⁸⁴ Form CO, paragraphs 340 *et seqq.*

- (91) As the Commission was not able to verify the Notifying Parties' claims in relation to their and their competitors' positions in the market for CTS for direct employee shareholding to listed companies, it will conservatively assess this market as an affected market.
- (92) *CTS to listed companies.* The Parties' combined market share in the overall market for CTS to listed companies in France, *i.e.* including both CTS for investor shareholding and CTS for direct employee shareholding, would remain below 25%. The Parties were not able to provide their and their competitors' exact market shares on this hypothetical broader market as there is no publicly available information on the identity of each company's CTS provider(s) for direct employee shareholding. The estimate of the Parties' combined market share is therefore provided on the basis of (i) the Parties' market share in the markets for CTS for investor shareholding and CTS for direct employee shareholding to listed companies (estimated as outlined above, *i.e.* up to [40-50]% in CTS for investor shareholding and [20-30]% for direct employee shareholding) and (ii) the Parties' relative proportions of revenues earned from CTS for investor shareholding vs CTS for employee shareholding to listed companies.

6.1.2. *Assessment of non-coordinated effects*

6.1.2.1. The Notifying Parties' view

- (93) *CTS for investor shareholding to listed companies.* The Notifying Parties submit that the Transaction does not give rise to any competition concerns resulting from non-coordinated effects in the market for CTS for investor shareholding to listed companies in France for the following reasons:
- (a) The Parties will continue to face competition from two large well-established domestic competitors, namely SGSS and CIC.⁸⁵
 - (b) In addition, other existing alternative suppliers will remain available, including smaller players and other non-specialised providers, *e.g.* notaries, accounting and law firms, who have the ability to expand quickly.⁸⁶
 - (c) The Parties are not particularly close competitors.⁸⁷ In particular, BNPP's main customers are large capitalization companies, whereas CACEIS' main customers are mid-capitalization, equity and non-publicly listed companies. Both Parties would compete most closely with SGSS.
 - (d) Many companies are able to perform CTS in-house, and in-sourcing CTS activities, therefore, provides an additional alternative to the Parties' CTS services.⁸⁸
 - (e) The CTS sector is characterized by strong buyer power. Customers generally select providers of CTS through tenders and have the ability to quickly switch suppliers at a limited cost.⁸⁹

⁸⁵ Form CO, paragraph 248.

⁸⁶ Form CO, paragraphs 248 and 250.

⁸⁷ Form CO, paragraphs 462 *et seqq.*

⁸⁸ Form CO, paragraph 264.

⁸⁹ Form CO, paragraph 270.

- (f) The JV will be subject to significant potential competition in the market for CTS in general, particularly from players already active abroad.⁹⁰
- (94) *CTS for direct employee shareholding to listed companies.* As mentioned above, the Notifying Parties submit that the Transaction does not give rise to any competition concerns resulting from non-coordinated effects in the market for CTS for direct employee shareholding to listed companies in France. Specifically, they argue that their position in CTS for direct employee shareholding to listed companies in France does not give rise to an affected market (even if in-house activities are excluded).⁹¹ That is because, in addition to providers of CTS for investor shareholding, a wide range of additional (including non-specialised) players provide CTS for direct employee shareholding to listed companies. These include international players with an IT focus (Computershare, Equity, Capital, Solium by Morgan Stanley etc.), or a wealth management focus (Banque Transatlantique, Global Share, Morgan Stanley etc.).⁹² According to the Notifying Parties, these elements would explain the much lower combined market share the Parties would hold in the plausible market for CTS for direct employee shareholding to listed companies, as opposed to their market share in the plausible market for CTS for investor shareholding to listed companies. Consequently, these elements would also explain the below 25% market share the Parties would hold in the overall market for CTS to listed companies. Moreover, the above-mentioned considerations about buyer power are also applicable to the market for CTS for direct employee shareholding.⁹³
- (95) *CTS to listed companies.* The Notifying Parties do not provide separate arguments in relation to the overall hypothetical broader market for CTS to listed companies.

6.1.2.2. The Commission's assessment

A. CTS for investor shareholding to listed companies

- (96) In the plausible market for CTS for investor shareholding to listed companies in France, the Parties' combined market share is [40-50]%, with an increment of [10-20]% brought by BNPP. The other two main players in this market are SGSS ([20-30]% share) and CIC ([10-20]% share).⁹⁴ In addition, certain smaller non-specialised providers are present and serve mainly smaller listed companies or listed companies with less complex CTS needs. This is therefore a rather concentrated market, in which the Transaction will combine two of the four main players. Nevertheless, the Commission considers that post-Transaction the JV will continue to face sufficient competitive pressure and Transaction therefore does not raise competition concerns. This is for the following reasons.
- (97) *First*, the Parties do not appear to be each other's closest competitor and will continue to face competitive pressure from the remaining (and closer) competitors. In particular, there is a degree of differentiation of CTS for investor shareholding

⁹⁰ Form CO, paragraphs 353 *et seqq.*

⁹¹ The Notifying Parties reply to RFI 6, dated 24 November 2022, Question 7.

⁹² Form CO, paragraph 341.

⁹³ Form CO, paragraph 342.

⁹⁴ As explained in footnote 83 above, some of Others ([10-20]% share) may in addition also be contributed to SGSS and/or CIC.

depending on the size of the listed company served, as the services differ in terms of complexity and specific needs of various sized companies. A competitor therefore explains that: “*the ability to compete for companies of different sizes depends primarily on human capital factors (expertise, experience, trust in the CTS team of the CTS provider) and IT infrastructure- related factors*”.⁹⁵ The players therefore generally target a specific type of customer. While BNPP’s main customers are large listed companies, CACEIS’ main type of customers include small listed companies.⁹⁶ This is evident from the Parties’ customer data. Most ([...])% of BNPP’ customers are large listed companies, while nearly [...])% of CACEIS’ customers are small and medium sized listed companies.⁹⁷

- (98) Table 2 below shows the Parties’ and competitors’ market shares in CTS to investor shareholding to large, medium and small sized listed companies. This further illustrates the differentiation in the Parties’ target customers, with BNPP having an increasingly higher market share for larger customers, and vice-versa for CACEIS.

Table 2: Market shares in CTS for investor shareholding to listed companies in France, by market capitalization, based on the number of companies in November 2022

Player	Eurolist A (Large cap)	Eurolist B (Medium cap)	Eurolist C (Small cap)
BNPP	[30-40]%	[20-30]%	[5-10]%
CACEIS	[10-20]%	[20-30]%	[20-30]%
Combined	[40-50]%	[40-50]%	[30-40]%
SGSS	[30-40]%	[20-30]%	[10-20]%
CIC	[5-10]%	[10-20]%	[10-20]%
In-house	[5-10]%	[20-30]%	[30-40]%
Others ⁹⁸	[5-10]%	[0-5]%	[5-10]%
Total	100%	100%	100%

Source: Form CO, paragraph 321. Based on French and foreign companies listed on the Eurolist of Euronext Paris, on the Parties’ best knowledge and on publicly disclosed information.

- (99) Market participants consistently confirmed the differences in the Parties’ main target customer groups. With respect to BNPP, most customers mention their experience with large-cap companies as their main strength and large-cap companies as BNPP’s main targeted clients.⁹⁹ With respect to CACEIS, most customers mention mid-cap and small-cap companies as their main targeted clients.¹⁰⁰ One customer explained for example:¹⁰¹ “*for large listed companies on the CAC 40, only BNPP and SG have a significant presence*”, while CACEIS

⁹⁵ Minutes of a call with a competitor, dated 9 November 2022.

⁹⁶ Throughout the decision, the size of a company’s capitalization is categorised on the basis of categorization adopted by Euronext. In particular, large companies include companies on Eurolist A (market capitalization above EUR 1 billion), mid-sized companies are companies on Eurolist B with a (market capitalization between EUR 150 million and EUR 1 billion), and small companies are companies on Eurolist C (market capitalization below EUR 150 million).

⁹⁷ The Notifying Parties’ reply to RFI 7, dated 30 November 2022, Annex 3 and Annex 4. BNPP’s listed customer of CTS for investor shareholding include [...] large, [...] medium and [...] small sized companies. CACEIS’s listed customers of CTS for investor shareholding include: [...] large, [...] mid and [...] small sized companies.

⁹⁸ Others include companies for which the Notifying Parties’ were not able to identify their CTS provider.

⁹⁹ Replies to Questionnaire Q2 to Customers, Question 13.

¹⁰⁰ Replies to Questionnaire Q2 to Customers, Question 13.

¹⁰¹ Minutes of a call with a customer, dated 13 October 2022.

“seems more present in the smaller listed companies market.” Other customers explain for example that *“the Parties are not considered as competing closely, as they target different types of customers – while BNPP clients are mostly large listed companies, Caceis’ clients are mostly smaller companies”*¹⁰², and *“[Customer] does not see BP2S [BNPP] and Caceis as providing competing services. Caceis services primarily smaller companies, while BP2S has a significant number of large clients listed on the CAC 40.”*¹⁰³ The view was further confirmed by Autorité des Marchés Financiers (“AMF”) who explained that *“BPS2 and Caceis CT have different type of customers and therefore are not close competitors.”*¹⁰⁴

(100) Instead, BNPP competes most closely with SGSS, which is the main provider of CTS to large and to some degree mid-sized listed companies. This is illustrated by the market shares in Table 2 above, where BNPP’s market share in the provision of CTS for investor shareholding to large listed companies ([30-40]%) is most closely followed by SGSS’ ([30-40]%), while CACEIS has a notably lower market share ([10-20]%). Furthermore, it was consistently confirmed by the market participants. The vast majority of customers and virtually all competitors consider SGSS as the closest competitor to BNPP.¹⁰⁵ The customers also list large and mid-sized companies as the main target group of customers of SGSS.¹⁰⁶ One customer explains for example:¹⁰⁷ *“for large listed companies on the CAC 40, only BNPP and SG have a significant presence”* and another one:¹⁰⁸ *“the Parties would continue to face competition from SGSS, which is considered as the closest competitor to both BP2S [BNPP] and Caceis”*.

(101) CACEIS, on the other hand, competes to a varying degree with all BNPP, SGSS and CIC, depending on the customer size. As illustrated by Table 2 above, for medium sized listed companies CACEIS’ leading market share is most closely followed by SGSS’ and for small listed companies by CIC. While the market shares of SGSS and BNPP for medium and small sized companies do not differ significantly, most customers consider SGSS as the closest competitor to CACEIS, with a notable proportion also mentioning BNPP and CIC,¹⁰⁹ with responding competitors being split. However, for small sized companies¹¹⁰ CACEIS appears to most closely compete with CIC, which has the second largest market share in this segment (see Table 2 above) and for which customers consider strong experience with small-cap companies as its main strength.¹¹¹ A competitor for example explains:¹¹² *“CACEIS CT and CIC CM are targeting the same types of prospects to develop business: mid and small cap, small IPO on the market, and unlisted companies”*. Customers, for example mention that CIC’s main strength is

¹⁰² Minutes of a call with a customer, dated 12 October 2022.

¹⁰³ Reply to Questionnaire Q2 to Customers, Question 23.

¹⁰⁴ Minutes of a call, dated 28 October 2022.

¹⁰⁵ Replies to Questionnaire Q1 to Competitors, Question 19, and Questionnaire Q2 to Customers, Question 16.

¹⁰⁶ Replies to Questionnaire Q2 to Customers, Question 13.

¹⁰⁷ Minutes of a call with a customer, dated 13 October 2022.

¹⁰⁸ Minutes of a call with a customer, dated 12 October 2022.

¹⁰⁹ Replies to Questionnaire Q2 to Customers, Question 16.

¹¹⁰ Which as discussed above in paragraph 97 are CACEIS’ focus.

¹¹¹ Replies to Questionnaire Q2 to Customers, Question 13.

¹¹² Reply to Questionnaire Q1 to Competitors, Question 19.

“[c]apacity to handle very small accounts, including unlisted companies” and also describe it as “focused on small clients”.¹¹³

- (102) The Commission also assessed the tender data provided by the Parties.¹¹⁴ The data shows that in the last 10 years BNPP [...]. From CACEIS’ data, [...].
- (103) *Second*, the Parties will continue facing sufficient competitive pressure post-Transaction, in particular from SGSS, which appears to be the closest competitor to BNPP specifically for the large-cap listed companies segment and to CACEIS for the mid-cap listed companies segment, and is considered a particular aggressive competitor.
- (104) The strength of SGSS is confirmed by the Parties’ internal documents. CACEIS’ internal documents for example describe competition as “[...]” and “[...]”¹¹⁵, while BNPP’s documents mention that post-Transaction the JV “[...]”.¹¹⁶
- (105) With respect to the competitiveness of the market post-Transaction, one customer explains for example:¹¹⁷ “*Société Générale Securities Services will remain a strong competitor*” and another one with similarly views:¹¹⁸ “*SG as an aggressive competitor to BP2S and feels that SG has made more investments in the recent years, has teams in Paris that frequently meet with large companies to pitch its services, and seems overall more efficient*”. Given this strategy of SGSS, which is actively trying to gain market share, there does not appear to be any restriction on SGSS’ ability to expand its CTS services and start serving customers previously served by the Parties.
- (106) Furthermore, the fact that the Parties will continue facing competitive pressure from SGSS, as well as from CIC, is confirmed by the Parties’ tender data. The data shows that in the vast majority of tenders, in which both the Parties participated, at least one other player was present. Specifically, [...].
- (107) *Third*, most market participants consider that the players remaining in the market post-Transaction will be sufficient to continue running competitive tender processes for the selection of their CTS provider. The responding market participants are split as to the number of bidders required for a competitive tender process, with a small majority of the responding customers indicating that three or more bidders are required for a competitive tender, while the remainder indicates that two bidders are sufficient.¹¹⁹ Importantly, however, the large majority of customers and competitors indicated that post-Transaction the tendering process will remain competitive.¹²⁰

¹¹³ Replies to Questionnaire Q2 to Customers, Question 13.

¹¹⁴ Form CO, Annex 8.3. The list of tenders, covering the years 2012 – 2022, was established to the best of the Parties’ knowledge and may not be fully exhaustive.

¹¹⁵ CACEIS’ internal document named “*M.10786 - CACEIS Section 5.4 (I_3)(10242952846.1)*”.

¹¹⁶ BNPP’ internal document named “*Project Tournesol - ComAcq signing July 25072022 – vredacted*”.

¹¹⁷ Reply to Questionnaire Q2 to Customers, Question 17.

¹¹⁸ Minutes of a call with a customer, dated 13 October 2022.

¹¹⁹ Replies to Questionnaire Q2 to Customers, Question 17.1. Most competitors, however, suggest that 3 or more bidders are required for a competitive tender, without substantiating their claims – Replies to Questionnaire Q1 to Competitors, Question 20.4.

¹²⁰ Replies to Questionnaire Q2 to Customers, Question 17.2, and Replies to Questionnaire Q1 to Competitors, Question 20.5.

- (108) *Fourth*, the Commission’s assessment shows that, at least certain large customers, for instance, CAC 40 companies,¹²¹ are able to exercise a degree of buyer power during the tendering process. The large majority of the responding customers indicate that they have equal or high bargaining power vis-a-vis their CTS provider,¹²² and competitors confirm that they have no or little bargaining power.¹²³
- (109) This is because the majority of customers also obtain other banking services from companies in the corporate group of their CTS provider, often paying higher fees for the other banking services compared to the CTS services.¹²⁴ This appears to be particularly relevant for large listed companies, with one of them for example describing that they have buyer power because “*as a large customer, it can also buy a large range of other services.*”¹²⁵ In addition, serving the largest listed companies may be important reference for CTS providers, with one customer explaining:¹²⁶ “*Having [us] (and a few other main CAC40 issuers) as a client is seen by CTS actors as a “must have” track record in order to acquire or keep other clients as we are “THE” reference when it comes to shareholder relationship. In case the new JV were to increase its prices, we have no doubt that SGSS would jump on the occasion and offer us a competitive offer.*” However, the arguments do not necessarily apply to smaller customer and not all customers share the view, with some of them even explaining that there exist Chinese walls within their providers separating their CTS activities from other corporate banking activities.¹²⁷
- (110) *Fifth*, the Commission considers that the performance of CTS in-house or the provision of CTS by smaller non-specialised players (*e.g.* notaries, accounting firms and law firms) for listed companies in general does not provide a credible alternative to CTS services by specialised players and does not exert significant competitive pressure on the Parties.
- (111) As regards the in-house provision of CTS for listed companies, only a very limited number of companies listed on the CAC 40, and a slightly larger proportion of other listed companies, currently in-source some of their CTS. However, listed customers that currently source CTS from an external provider consistently do not consider switching to performing CTS in-house as a realistic possibility.¹²⁸ This is because in-house provision would require large and continuous investments in IT infrastructure and the hiring of a full team with relevant experience.¹²⁹ Furthermore, an in-house CTS department would likely still need to rely on certain

¹²¹ The CAC 40 is a benchmark French stock market index, which is made up of the largest 40 companies listed in France.

¹²² Replies to Questionnaire Q2 to Customers, Question 18.

¹²³ Replies to Questionnaire Q2 to Competitors, Question 21.

¹²⁴ Replies to Questionnaire Q2 to Customers, Question 19.

¹²⁵ Reply to Questionnaire Q2 to Customers, Question 18.

¹²⁶ Reply to Questionnaire Q2 to Customers, Question 18.

¹²⁷ Replies to Questionnaire Q2 to Customers, Question 18.1.

¹²⁸ Replies to Questionnaire 1 to Competitors, Question 9.1 and Questionnaire 2 to Customers, Question 8.1. [...], non-confidential response of [...] to Questionnaire 2 to Customers, Question 8.1.1.

¹²⁹ Minutes of a call with a customer, dated 21 October 2022, Minutes of a call with a customer, dated 12 October 2022, Minutes of a call with a customer, dated 13 October 2022, and Minutes of a call with a customer, dated 12 October 2022.

(e.g. IT) services provided by a third party.¹³⁰ They explain for example: “while technically possible, the provision of CTS in-house would be cumbersome and would require large up-front investments into specific IT infrastructure and development of proprietary IT solutions, as well as the hiring of a large number of staff.”¹³¹ and “it would not make sense to deal with CTS in-house, primarily as it would require large investments in IT infrastructure and human capital (e.g. expertise).”¹³²

- (112) As regards sourcing CTS from non-specialised providers such as notaries, accounting and law firms, a clear majority of both customers and competitors indicated that this is not a realistic possibility for listed companies.¹³³ This is because those providers do not have the requisite resources such as the necessary IT capabilities or expertise to accommodate the needs of large companies.¹³⁴ One customer also pointed out that a banking license is required with respect to certain CTS for listed companies,¹³⁵ which notaries, accounting and law firms would generally not have.
- (113) Nevertheless, medium and particularly small sized listed companies with less complex needs may to a certain degree be able to in-source their CTS services, which would provide an additional alternative to the Parties’ services. This is evident from Table 2 above, which shows that a third of small sized listed companies provide their CTS services in-house. This is because they typically have fewer shareholders and thus less complex CTS needs. AMF, for example “considers that only smaller companies can organise a part of their CTS in-house”.¹³⁶ A customer indicates that in case of anti-competitive conduct in the market they “would try to internalize services as much as possible (to the extent feasible in practice and permitted by laws and regulations)”.¹³⁷ For the part of CTS that is more complex to internalise or a specific (e.g. banking) license is required, small listed companies are more likely to be able to rely on non-specialised CTS providers.
- (114) *Sixth*, the large majority of market participants consider the Transaction to have a neutral or even positive impact on the market for CTS for investor shareholders to listed companies.¹³⁸ A considerable proportion of market participants consider that the Transaction would lead to an increased quality of CTS services available. They confirm the Parties’ claims that the provision of CTS is a loss-making or just breaking even activity.¹³⁹ This is due to the high investments required (e.g. IT

¹³⁰ Minutes of a call with a customer, dated 12 October 2022.

¹³¹ Minutes of a call with a customer, dated 13 October 2022.

¹³² Minutes of a call with a customer, dated 21 October 2022.

¹³³ Replies to Questionnaire 1 to Competitors, Question 9.2 and Questionnaire 2 to Customers, Question 8.2, Minutes of a call with a customer, dated 21 October 2022.

¹³⁴ Minutes of a call with a customer, dated 21 October 2022, Minutes of a call with a customer, dated 12 October 2022.

¹³⁵ Minutes of a call with a customer, dated 12 October 2022.

¹³⁶ Minutes of a call, dated 28 October 2022.

¹³⁷ Reply to Questionnaire Q1 to Customers, Question 26.

¹³⁸ Replies to Questionnaire Q2 to Customers, Question 23, and to Questionnaire Q1 to Competitors, Question 26.

¹³⁹ The fact that the provision of CTS is a low-margin activity is also confirmed by the Parties’ internal documents. For example, CACEIS’ internal document named *M.10786 - CACEIS Section 5.4*

systems, personnel), combined with the companies' reluctance to pay a price premium over this service (which is a compliance service of which costs are generally not passed on to the shareholders). According to market participants, the Transaction would allow the Parties to achieve cost-efficiencies, make additional investments into their service and thus compete more effectively with the remaining players. One customer for example:¹⁴⁰ *"sees consolidation in the market as necessary given the low profitability of and the continuous IT investments required for the provision of CTS"*¹⁴¹ and another one states:¹⁴² *"the Transaction will allow BP2S and Caceis to invest in their product offering, increasing the quality of the services provided and the worldwide covering and expertise"*. At the same time, the large majority considers that the JV will continue facing sufficient competitive pressure,¹⁴³ for example considering *"that competition between BP2S and SG is fierce and sufficient and will remain so post-Transaction"*,¹⁴⁴ and *"you will lose one of the main actor on the market but at the same time SGSS will remain as the main competitor"*.¹⁴⁵ Thus, as summarized by a customer: *"we expect a better service / higher quality taking the best of the 2 entities. [Impact on] Pricing neutral as competition will remain with existing incumbents."*¹⁴⁶

- (115) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible horizontal non-coordinated effects in the market for CTS for investor shareholding to listed companies in France.

B. CTS for direct employee shareholding to listed companies

- (116) Based on the Notifying Parties' submission, their combined market share in the plausible market for CTS for direct employee shareholding to listed companies would remain below 20%, thus, not giving rise to an affected market. Since, however, the Commission was not able to verify the Parties' and their competitors' positions in this market, it conservatively considers also this market to be potentially affected.
- (117) Even assuming this market to be affected, the Commission considers that, post-Transaction, the JV will continue to face sufficient competitive pressure and the Transaction, therefore, would not raise competition concerns. This is for the following reasons.
- (118) *First*, while the Commission was not able to fully confirm the Parties' claims that their combined share would remain below 20% in this plausible market,¹⁴⁷ there is

(I_3)(10242952846.1) states *"The [CTS] activities for CACEIS and for BP2S have been loss-making or break-even for many years"*.

¹⁴⁰ Minutes of a call with a customer, dated 12 October 2022.

¹⁴¹ Minutes of a call with a customer, dated 12 October 2022.

¹⁴² Minutes of a call with a customer, dated 21 October 2022.

¹⁴³ Replies to Questionnaire Q2 to Customers, Question 17.2, and to Questionnaire Q1 to Competitors, Question 20.5.

¹⁴⁴ Minutes of a call with a customer, dated 13 October 2022.

¹⁴⁵ Reply to Questionnaire Q1 to Customers, Question 26.

¹⁴⁶ Reply to Questionnaire Q2 to Customers, Question 28.

¹⁴⁷ In particular, most of the respondents to the market investigation did not name any other players providing CTS for direct employee, in addition to the Parties, SGSS, CIC and Banque Transatlantique

indication that the competitive landscape for CTS for direct employee shareholding is more diverse and dynamic compared to the more concentrated market for CTS for investor shareholding to listed companies. The market investigation results, while suggesting that SGSS would be the most competitive player in this market, followed by – in order – CACEIS, BNPP, and CIC, also reveal that there are a number of additional players, mentioning mainly Banque Transatlantique and, to a more limited extent, Computershare as alternative players in the market. This is consistent with the Parties’ tender data, which shows Banque Transatlantique and Computershare as the winner of a few tenders that the Parties participated in for CTS for direct employee shareholding.

- (119) Moreover, given that CTS for employee shareholding seem to include a wider range of activities, such as custody of the underlying shares, structuring of the direct employee shareholding plans, tax advisory services, it seems frequent that these different activities are offered by additional CTS providers as compared to the providers of CTS for investor shareholding to listed companies. In this respect, one customer indicates “*CTS for employee shareholding increasingly involve advisory services (structuring, tax, etc.), which may lead issuers to use different players for each service*” and another one further submits that “*We know that some CTS providers propose only CTS for direct employee shareholding*”. Another customer also adds “*I would believe that CTS for direct employee shareholding is less difficult than CTS for investor shareholding and can be more easily addressed by a new player*”.¹⁴⁸ The Parties, therefore, seem to be less strong in the market for CTS for direct employee shareholding to listed companies as opposed to the market for CTS for investor shareholding to listed companies. This would be also proven by the circumstance that they only provide [...] of their listed customers with CTS for direct employee shareholding, while they provide [...] their listed customers with CTS for investor shareholding.¹⁴⁹ It is likely that those listed customers, or at least a part of them, sourcing their CTS needs for investor shareholding from the Parties, source their CTS needs for direct employee shareholding from alternative providers.
- (120) *Second*, similar considerations to those outlined above for the market for CTS for investor shareholding to listed companies in relation to closeness of competition and buyer power apply also to the market for CTS for direct employee shareholding to listed companies.
- (121) Specifically, in relation to closeness of competition, the Commission assessed also the tender data provided by the Parties for CTS for direct employee shareholding to listed companies.¹⁵⁰ The data shows that, in the last 10 years, BNPP [...], further suggesting the presence of alternative players for listed companies in this market. Moreover, BNPP [...]. From CACEIS’ perspective, the results of the tender data analysis are less conclusive, and show that CACEIS competes mainly with SGSS and BNPP.

(part of the same group as CIC, Credit Mutuel). Replies to Questionnaire Q1 to Competitors, Question 17, and to Questionnaire Q2 to Customers, Question 14.

¹⁴⁸ Replies to Questionnaire Q2 to Customers, Questions 6.1, 17.3.1, 24.1.

¹⁴⁹ The Notifying Parties’ reply to RFI 7, dated 30 November 2022, Annexes 3 and 4.

¹⁵⁰ Form CO, Annex 8.3. The list of tenders, covering the years 2012 – 2022, was established to the best of the Parties’ knowledge and may not be fully exhaustive.

- (122) The Parties' tender data also confirms that the Parties will continue facing competitive pressure in this market. In the vast majority of tenders ([...]), in which both the Parties participated, at least one other player was present. Specifically, out of [...] tenders for CTS for direct employee shareholding to listed companies in which the Parties met,¹⁵¹ SGSS was present in [...] tenders and won [...] of them, while CIC was present in [...] tenders (in [...]%) of the tenders where the Parties met, they therefore competed with both SGSS and CIC).
- (123) Regarding buyer power, the market investigation results confirmed similar dynamics to those applicable to CTS for investor shareholding to listed companies, *i.e.* the majority of customers indicate that their bargaining power vis-à-vis CTS providers for direct employee shareholding is not that different from the bargaining power they have for CTS for investor shareholding.¹⁵² In relation to buyer power, one customer refers to the presence of a number of alternative providers in this market, which would arguably favour the exercise of countervailing buyer power.¹⁵³ Specifically, this customer indicates that “[i]n CTS for employee shareholding, alternatives exists [sic] (at least a lot of tasks can be handled by other players, such as banks and asset manager). In addition, technicality is probably a little less important in CTS for employee shareholding than in CTS for investor shareholding”.¹⁵⁴
- (124) *Third*, the vast majority of respondents to the market investigation indicated that the Transaction would have either a neutral or a positive impact on the market for CTS for direct employee shareholding to listed companies, specifically referring to fiercer competition vis-à-vis SGSS and increased service quality among the positive aspects the Transaction may bring about. Some customers explicitly indicate that the Transaction will have a neutral impact on prices mainly because of the presence of other players which will be able to still exert competitive pressure post-Transaction. One customer, for example, indicates that “*the transaction will allow a combined company to emerge with higher quality / better services combining the strengths of both entities*” and another one adds that “[w]e already use several providers for employee shareholding depending on the needs, and we intend to continue to do so”. One competitor also highlights that “[t]he new entity will benefit from mutualised cost of its operating model, knowing that huge investment will be required in the coming years”.¹⁵⁵
- (125) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible horizontal non-coordinated effects in the market for CTS for direct employee shareholding to listed companies in France.

C. CTS to listed companies

¹⁵¹ This includes tenders including both CTS for investor shareholding and CTS for direct employee shareholding.

¹⁵² Replies to Questionnaire Q2 to Customers, Question 18.2.

¹⁵³ Horizontal Merger Guidelines, paragraph 65.

¹⁵⁴ Reply to Questionnaire Q2 to Customers, Question 18.2.

¹⁵⁵ Replies to Questionnaire Q2 to Customers, Question 25, and to Questionnaire Q1 to Competitors, Question 27.

- (126) In the plausible market for CTS to listed companies, the Parties' combined market share would remain below 25%. This is below the threshold set out in the Horizontal Merger Guidelines, below which a concentration is considered "*not liable to impede effective competition [and] may be presumed to be compatible with the [internal] market*".¹⁵⁶
- (127) The plausible market for CTS to listed companies would be a broader market comprising both CTS for investor shareholding to listed companies and CTS for direct employee shareholding to listed companies. Above, the Commission carried out separate assessments in relation to these two narrower plausible markets; the same considerations outlined above equally apply to the broader market for CTS to listed companies.
- (128) Based on the arguments set out above in relation to the markets for CTS for investor shareholding to listed companies and CTS for direct employee shareholding to listed companies, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible horizontal non-coordinated effects in the market for CTS to listed companies in France.

6.1.3. Assessment of coordinated effects

6.1.3.1. The Notifying Parties' view

- (129) The Notifying Parties submit that the Transaction will not give rise to potential horizontal coordinated effects on the broader market for CTS to listed companies nor on the narrower markets for CTS for investor shareholding to listed companies and CTS for direct employee shareholding to listed companies in France, for the following reasons.¹⁵⁷
- (130) *First*, the market players would likely not be able to reach terms of coordination:¹⁵⁸
- (a) There are several alternative market players with asymmetric market positions, and the asymmetry will further increase as a result of the Transaction.
 - (b) The nature of the tendering process prevents coordination on prices. Because companies generally launch tender process on a regular basis, the CTS providers have strong incentives to bid competitively. Furthermore, the negotiation process with customers is very opaque and pricing used by providers of CTS services is not transparent, and thus the CTS providers do not have the ability to reach terms of potential coordination in terms of pricing.
 - (c) Finally, the players would not be able to allocate customers between themselves as (i) the public information on each company's CTS provider is limited to investor shareholding only, (ii) no public information at all is available to companies going public in the context of an IPO, (iii) the players have strong incentives to compete aggressively for each customer given the

¹⁵⁶ Horizontal Merger Guidelines, paragraph 18.

¹⁵⁷ Form CO, paragraphs 364 *et seqq.*

¹⁵⁸ Form CO, paragraphs 369 *et seqq.*

limited number of potential CTS customers, and (iv) the tendering process is not transparent (*e.g.* players have no visibility into who is bidding in a specific tender).

- (131) *Second*, any coordination would not be sustainable because (i) the players are not able to monitor deviations from a hypothetical coordination due to lack of transparency in the market, (ii) no sufficiently severe deterrent mechanism exists in the market and (iii) customers have strong countervailing buyer power and can easily switch their providers.¹⁵⁹

6.1.3.2. The Commission's assessment

- (132) The Commission considers that the Transaction is not likely to create a risk of coordinated effects in the market for CTS to listed companies in France or its plausible segments, based on the following considerations.
- (133) *First*, the market structure is not particularly conducive for coordination, as asymmetric market positions of the players would make it difficult for the players to reach a common understanding on the terms of coordination. With respect to CTS for investor shareholding to listed companies, the JV will become the market leader, followed by SGSS and then CIC with some distance. The JV and the remaining players would also target different customers, where the JV will potentially equally focus on large-cap, mid-cap and small-cap listed companies, SGSS will mainly focus on large-cap and mid-cap listed companies, and CIC will mainly focus on mid-cap and small-cap listed companies. Coordination in the market for CTS for direct employee shareholding to listed companies would be further complicated due to the presence of additional players active in this market, including at least Banque Transatlantique and Computershare.
- (134) *Second*, the tendering nature of the market further reduces the transparency of the market. In particular, the negotiations with each tender participant are opaque and there is no common pricing policy – instead, the structure (variable vs fixed) and size of the fees are negotiated on a tender by tender basis and not made public. This would further increase the difficulties associated with reaching the terms of coordination.
- (135) *Third*, the lack of transparency described above, resulting from the fact that the contractual negotiations and their outcome are not made public, prevents the players from being able to monitor each other's behaviour. Even if they were able to do so, no credible and effective deterrent mechanism appears possible. This is even more so given that the typical length of CTS contracts is of around three years, which means that market players have the incentive to compete aggressively and, therefore, to deviate from any plausible terms of coordination, by offering lower prices, increasing service quality and, more generally, trying to win new customers. The low-margin nature of this market makes the need to compete and gain market shares from other players even stronger.
- (136) *Fourth*, the Commission considers that any coordination will not be sustainable because of the reaction of the customers. As explained in Section 6.1.2.2. above,

¹⁵⁹ Form CO, paragraphs 397 *et seqq.*

the market for CTS to listed companies is characterised by a degree of buyer power. The same possible strategies as discussed above (*e.g.* threatening to stop using the CTS provider's wider group's banking services) could be used by customers in case of coordination.

- (137) *Fifth*, the above is confirmed by the respondents to the market investigation. The large majority of responding market investigation respondents consider that the Transaction will not facilitate coordination and, more specifically, market partitioning.¹⁶⁰ Even if the players had the ability to coordinate, virtually all respondents confirm that they are likely to have the incentive to continue competing with one another.¹⁶¹ Instead, as put by one customer:¹⁶² “*we rather think [the Transaction] will reinforce the competition between SGSS and the combined entity*”.
- (138) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement as a result of possible horizontal coordinated effects in the market for CTS (or plausible narrower market for CTS for investor shareholding or CTS for direct employee shareholding) to listed companies in France.

6.1.4. Conclusion

- (139) In light of the above considerations, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement in terms of its competition impact in the plausible markets for CTS for investor shareholding to listed companies in France.

6.2. Vertically Affected Markets

- (140) BNPP holds a majority shareholding (66.6%) in SLIB, a joint venture with Natixis. SLIB's activities include the development of software used in the management of general meetings and registrar activities (solutions for registry, electronic voting, risk and post-trade).
- (141) SLIB has developed two middleware software products (*i.e.* integration platforms) in the banking and financial sector, namely RegistrAccess and VotAccess. These multi-users platforms are used as an input application by the entire chain of the securities stakeholders. The design and development of these solutions is the result of a call for tenders initiated by the former Association Française des Professionnels des Titres (“AFTI”), now known as France Post-Marché. Based on its proposal, SLIB was selected to design, develop and implement the two marketplace platforms.¹⁶³

¹⁶⁰ Replies to Questionnaire Q1 to Competitors, Question 29, and to Questionnaire Q2 to Customers, Question 26.

¹⁶¹ Replies to Questionnaire Q1 to Competitors, Question 29, and to Questionnaire Q2 to Customers, Question 26.

¹⁶² Reply to Questionnaire Q2 to Customers, Question 26.

¹⁶³ Form CO, paragraphs 93-102.

- (142) RegistrAccess¹⁶⁴ and VotAccess are platforms that provide the relevant infrastructure to allow their participants to perform specific applications, such as the exchange of transaction orders of unlisted securities in the case of RegistrAccess and the collection of voting instructions by the shareholders of companies in the case of VotAccess. The participants are all connected through the platforms in order to automate and accelerate the transmission of information while respecting the strong security and confidentiality constraints required by the financial sector.¹⁶⁵
- (143) In addition, CACEIS –to be replaced by the JV post-Transaction–¹⁶⁶ is one of the five members of the GIE, together with Air Liquide, GECINA, Bouygues and CIC. The GIE owns a software developed at the request of its members, by an IT development provider. The basic function of the software is to handle the registries in the CTS activities. The software is exclusively reserved for the use of the GIE’s members and is not made available on the market. In order to join the GIE, non-members have to file a request with the current members. Membership applications have to be accepted by the unanimous vote of the GIE’s General Assembly.^{167 168}

6.2.1. *The Parties’ activities*

- (144) VotAccess is a digital e-voting platform for the automatic and remote collection of voting instructions by the shareholders of listed companies prior to general meetings, as well as for distribution to issuers and/or issuers’ agents. This solution

¹⁶⁴ For completeness, RegistrAccess can only be considered a relevant input for unlisted companies. In light of (i) RegistrAccess’ market share below 30% under the narrowest plausible market segment upstream, and (ii) the Parties’ combined market share below 20% under any plausible market for CTS to unlisted companies downstream, the respective link is not vertically affected. RegistrAccess will thus not be further discussed in the present Decision (Form CO, paragraphs 328 and 346, the Notifying Parties’ reply to RFI 6, dated 24 November 2022, Question 3(b), and the Notifying Parties’ reply to RFI 10, dated 5 December 2022, Questions 4 and 5).

¹⁶⁵ The Notifying Parties’ reply to RFI 7, dated 30 November 2022, Question 1.

¹⁶⁶ The Notifying Parties’ reply to RFI 10, dated 5 December 2022, Question 7.

¹⁶⁷ The Notifying Parties’ reply to RFI 8, dated 1 December 2022.

¹⁶⁸ Nevertheless, two competitors responding to the Commission’s market investigation expressed concerns over the GIE software, in particular due to (i) the fact that the JV will only replace CACEIS with one sole membership and thus benefit from cost advantages compared to other members, (ii) smaller members being “*scared by the domination of the JV within the GIE and [losing] interest in staying inside Registrar*” and (iii) the BNPP’s likely joining to the GIE potentially resulting in the latter becoming “*an essential facility on the market*” (Replies to Questionnaire Q1 to Competitors, Questions 30.1 and 31). However, any potential foreclosure theory of harm will not be further assessed in the present decision for the following reasons: (i) the GIE software is exclusively reserved for use for the GIE’s members and is not made available on the market; (ii) there is no pricing of the GIE software but, as a general rule, costs related to its development are shared among the members as long as all members agree on conducting development works. However, if a particular development request is made by (a) specific member(s), it is up to the said requesting member(s) to finance their own upgrades, with the results being then made available to all the rest; (iii) the Transaction will not in any way change or impact the way non-members can get access to the GIE software. In order to join, non-members have to file a request with the current members at any given time. Membership applications have to be accepted by the unanimous vote of the GIE’s General Assembly, with each member having one vote; (iv) the JV will only replace CACEIS and will therefore not acquire any additional (voting) powers within the GIE; and (v) pre-Transaction, BNPP is using its own proprietary software instead of the GIE software, and therefore no customer foreclosure theory of harm can be considered plausible (The Notifying Parties’ replies to RFI 8, dated 1 December 2022, to RFI 10, dated 5 December 2022, and to RFI 11, dated 13 December 2022).

facilitates secure access to voting for resident and non-resident shareholders, whether they are private individuals or corporate institutions.¹⁶⁹

- (145) The Transaction results in a vertical link, which gives rise to a vertically affected market between VotAccess software (upstream) and the JV's CTS activities in France (downstream).
- (146) With respect to the upstream market, the Notifying Parties explain that at the narrowest plausible segment, *i.e.* the provision of infrastructure software for remote collection prior to general meetings of voting instructions by the shareholders of listed companies in France, the market share of VotAccess can be estimated at [80-90]% of the companies listed on the SBF 120 and at [90-100]% of the companies listed in the CAC 40.¹⁷⁰
- (147) With respect to the downstream market, the JV's market share under all plausible market segments is presented in Section 6.1.1 above.

6.2.2. *Input foreclosure relating to VotAccess*¹⁷¹

6.2.2.1. The Notifying Parties' view

- (148) The Notifying Parties submit that SLIB (and thus BNPP) will have neither the ability nor the incentives to foreclose access to VotAccess to CTS providers competing with the JV. In particular, this is because (i) although SLIB is the editor and operator of VotAccess, its development has been initiated and co-financed by several financial actors and SLIB only manages it on behalf of the users and according to their decisions, and (ii) VotAccess is a multi-sided platform whose attractiveness depends on the presence of multiple players all using the same application.¹⁷²

6.2.2.2. The Commission's assessment

- (149) The Transaction is unlikely to give rise to competition concerns in the downstream market for CTS activities in France as a result of input foreclosure, by which the Transaction would result in BNPP preventing CTS providers competing with the JV from using VotAccess to perform the collection of voting instructions by the shareholders prior to general meetings.
- (150) *First*, the Transaction is unlikely to enable BNPP to restrict access to VotAccess for competitors in the downstream market. BNPP holds a majority shareholding in SLIB but a certain number of decisions, including the approval of the annual budget, strategic plan and major technology choices, cannot be adopted by the Board of Directors of SLIB without the favourable vote of at least one Director

¹⁶⁹ Form CO, paragraph 107.

¹⁷⁰ The Notifying Parties' reply to RFI 7, dated 30 November 2022, Question 2. According to the Notifying Parties, there are three other solutions that are in competition with VotAccess, namely Voxaly, Atos Vote and ABN AMRO e-voting.

¹⁷¹ Given that already pre-Transaction both Notifying Parties are only customers to VotAccess, customer foreclosure will not be further assessed in the present decision (The Notifying Parties' reply to RFI 11, dated 13 December 2022, Question 5).

¹⁷² Form CO, paragraphs 111-133.

appointed by Natixis.¹⁷³ Natixis' strategic veto rights further complicate the alignment of incentives within SLIB in order to harm its position in the upstream market in order to benefit the JV (of which profits are shared with a third party, namely CACEIS).

- (151) Furthermore, VotAccess has been developed following an initiative from AFTI, now called France Post-Marché. Its development has been initiated and co-financed by several financial actors and SLIB manages this application on behalf of the users and according to their decisions.
- (152) In particular, there is a specific Executive Steering Committee, made up of representatives of the main users, including both Notifying Parties pre-Transaction, SGSS and CIC. Its members are not selected. In fact, any user of the platform has the right to a seat in the Executive Steering Committee, subject to submitting their application, accepting the rules and duties associated with the role and signing the membership contract.¹⁷⁴ [...] ¹⁷⁵ [...] ¹⁷⁶ [...] ¹⁷⁷
- (153) In addition, on the basis of VotAccess' rules of governance, VotAccess is open on equal terms to all economic actors in the financial sector. In particular, all participants can access VotAccess on equal conditions as long as they have met the relevant conditions, such as signing the Membership Letter.¹⁷⁸
- (154) Therefore, SLIB's (and thus BNPP's) ability to restrict access, influence the pricing or the quality of services of VotAccess appears rather limited.
- (155) *Second*, the Transaction is unlikely to create an incentive for BNPP to foreclose competing CTS providers in the downstream market.
- (156) For instance, the Notifying Parties note that if SGSS were to leave VotAccess, this would result in (i) over [20-30]% of listed companies being removed from the platform from the issuer's perspective and (ii) significant volume of shareholders being removed from the platform from the custody account keeper perspective. This would have a significant impact on the usefulness of the tool and represent a significant loss of revenues for SLIB.¹⁷⁹
- (157) In addition, the Commission notes that this link is largely pre-existing as BNPP already controls SLIB pre-Transaction. The addition of CACEIS' share in the downstream market for CTS (and plausible segments) is unlikely to sufficiently change BNPP's incentives, in light also of the overall low profitability of the downstream market, as further discussed in paragraph 114 above.
- (158) As the Commission found that SLIB (and thus BNPP) would have no ability or incentive to foreclose the JV's downstream competitors in CTS activities (and

¹⁷³ Form CO, paragraphs 93-94.

¹⁷⁴ Form CO, Annex 3.5.a., Contrat Cadre VotAccess SRD2, Article 8.1.2 and 8.2, pages 18 and 20.

¹⁷⁵ Form CO, paragraphs 97 *et seqq.*

¹⁷⁶ The Notifying Parties reply to RFI 7, dated 30 November 2022, Question 5.

¹⁷⁷ Form CO, paragraph 127 and the Notifying Parties' reply to RFI 11, dated 13 December 2022, Question 4.

¹⁷⁸ The Notifying Parties' reply to RFI 7, dated 30 November 2022, Question 4 and Annex 1.

¹⁷⁹ The Notifying Parties' reply to RFI 6, dated 24 November 2022, Question 2.

plausible segments) in France, it is not necessary to assess in detail the overall impact of the Transaction on competition.

- (159) Nevertheless, in that regard, the Commission notes that during the course of its market investigation, no market participant expressed concerns with respect to a potential input foreclosure in relation to this vertical link or expects the Transaction to have any impact on the terms at which SLIB provides and develops VotAccess.¹⁸⁰

6.2.2.3. Conclusion

- (160) In light of the above considerations, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market of the functioning of the EEA Agreement as a result of an input foreclosure on the vertically affected market between VotAccess software (upstream) and the JV's CTS activities in France (downstream).

6.3. Assessment of the Cooperative Effects of the Joint Venture

- (161) Post-Transaction, BNPP and CACEIS will independently retain their other activities, including in corporate and investment banking in France.
- (162) According to the Notifying Parties, in some instances there may be a link between CTS services and corporate and investment banking for providers that are part of a banking group with the latter services, as CTS providers would naturally aim at supplying their corporate and investment banking customers. Pre-Transaction, while BNPP and CACEIS may have become aware of CTS opportunities through their corporate and investment banking arm of their respective groups, they nevertheless retained the said divisions independent.¹⁸¹

6.3.1. *The Notifying Parties' view*

- (163) The Notifying Parties submit that the Transaction will not lead to coordination between the Notifying Parties in any neighbouring markets closely related to the CTS market and its plausible segments, where the JV will be active. This is because: (i) the markets for banking are generally very competitive and are thus not prone to any form of coordination; (ii) the Notifying Parties' activities in corporate banking are not closely related to the JV's activities; (iii) the activities of the JV constitute only a minor proportion of the Notifying Parties' overall business activities in corporate and investment banking; and (iv) the Notifying Parties

¹⁸⁰ Replies to Questionnaire Q1 to Competitors, Question 28, and to Questionnaire Q2 to Customers, Question 27. One competitor considers that the Transaction will have an impact on the terms at which SLIB provides and develops VotAccess but explained that this impact may have to do with potential IT risks that might result from the concentration of higher volumes of voting instructions in the system.

¹⁸¹ Form CO, paragraph 525. The Notifying Parties also submit that post-Transaction, the Crédit Agricole and BNPP groups will not retain activities in the markets for CTS in France, except for limited activities through Amundi and BNPPER&E, respectively, which mostly offer indirect employee shareholding solutions. In light of the results of the market investigation with regard to indirect employee shareholding differing in certain important respects from other CTS, these activities will not be further assessed.

already have internal policies in place to cater for a sound compliance regime and prevent sharing of commercially sensitive information.¹⁸²

6.3.2. *The Commission's assessment*

- (164) The Commission considers that the Transaction does not give rise to serious doubts as to its compatibility with the internal market and with the EEA Agreement as a result of cooperative effects for the following reasons.
- (165) *First*, the structure of the relevant markets is not conducive to coordination between the Notifying Parties in France. The Notifying Parties have asymmetric positions in the corporate and investment banking markets, characterised by a significant number of players, including Société Générale, Crédit Mutuel, Natixis, HSBC, Deutsche Bank, Citi, BofA Securities, JP Morgan, and Morgan Stanley.¹⁸³ In addition, the Transaction does not eliminate any player in the corporate and investment banking markets and therefore the Notifying Parties will continue to face other strong competitors in France. Moreover, the JV itself will not be active in any of the relevant closely related markets, where the Notifying Parties will retain their own activities.
- (166) *Second*, the small size of the JV's CTS activities in comparison to the Notifying Parties' total activities makes it unlikely that the Transaction would change the Notifying Parties' incentive to coordinate their competitive behaviour. The JV's expected turnover constitutes less than 1% of the Notifying Parties' revenues in France.¹⁸⁴ In line with the Commission's conclusions in precedent cases, this suggests that the conduct of the Notifying Parties on the closely related markets is unlikely to be influenced by their cooperation in the JV.¹⁸⁵ In addition, the Commission's market investigation confirmed that generally customers that obtain corporate or investment banking services from the same group as their CTS provider spend significantly more on other banking services than on CTS.¹⁸⁶ One of the competitors replying to the Commission's market investigation explained that "[t]he pricing in France is very aggressive compared to other mature markets. For the centralization of corporate events or paying agent on debt instrument for example, the CTS provider is at "the end of the food chain" compared to Investment Banks or lawyers fees".¹⁸⁷
- (167) *Third*, any coordination would not be a direct consequence of the creation of the JV, the objective of which is to create a market player that will mainly compete in the CTS market and its plausible segments. In fact, the Notifying Parties aim to

¹⁸² Form CO, paragraphs 517 *et seqq.*, and the Notifying Parties' reply to RFI 6, dated 24 November 2022, Question 13.

¹⁸³ Form CO, Section 10, tables 1-4, and the Notifying Parties' reply to RFI 6, dated 24 November 2022, paragraph 52.

¹⁸⁴ Form CO, paragraph 521. The Notifying Parties further explain that the JV is expected to achieve revenues of approx. EUR [...] million. In comparison, in 2021, the corporate and investment banking branches of Crédit Agricole and BNPP respectively generated EUR [...] million and EUR [...] million in the EU (The Notifying Parties' reply to RFI 6, dated 24 November 2022, paragraph 49).

¹⁸⁵ See *e.g.* recently Case M.10070 – *Eurofiber/Proximus/JV*, decision of 26 July 2021, paragraph 221 and Case M.9971 – *P27 NPP/Bankgirot*, decision of 8 July 2021, paragraph 114, and Case M.9802 - *Liberty Global/DPG Media/JV*, decision of 5 July 2020, paragraph 341.

¹⁸⁶ Replies to Questionnaire Q2 to Customers, Question 19.

¹⁸⁷ Reply to Questionnaire Q1 to Competitors, Question 21.1.

have internal policies in place that will, in accordance with the relevant competition law, ensure (i) that the JV's owners cannot disseminate competitively sensitive information through the JV, and (ii) that the JV's owners will not receive sensitive information from the JV or from each other.¹⁸⁸

- (168) *Fourth*, the JV's CTS activities are relatively minor compared to the activities in the closely related markets, which takes place at a large number of other competitive factors. For example, competition in corporate and investment banking takes form of a long-term service relationship and companies choose their banking provider based on a number of other factors. The JV therefore does not affect the key facets of competition between the Notifying Parties.
- (169) *Fifth*, the Commission notes that market participants responding to the Commission's market investigation did not indicate any risk of cooperative effects resulting from the proposed Transaction.¹⁸⁹

6.3.3. *Conclusion*

- (170) In light of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market and with the EEA Agreement in relation to potential cooperative effects of the JV.

7. CONCLUSION

- (171) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Margrethe VESTAGER
Executive Vice-President

¹⁸⁸ The Notifying Parties' reply to RFI 6, dated 24 November 2022, paragraphs 57-60 and to RFI 11, dated 13 December 2022, paragraphs 44-61. The Notifying Parties submit that the JV's IT will be completely separate from the Notifying Parties' IT. In addition, both Crédit Agricole and BNPP have internal firewalls and policies in place to prevent the exchange of confidential information within their respective Groups and/or with third parties. With respect to the corporate and investment banking division of the Crédit Agricole Group, [...]. As far as BNPP is concerned, [...].

¹⁸⁹ Replies to Questionnaire Q1 to Competitors, Question 31, and to Questionnaire Q2 to Customers, Question 29.