

The Regulation and Structure of Collective Investment Vehicles in France

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Overview

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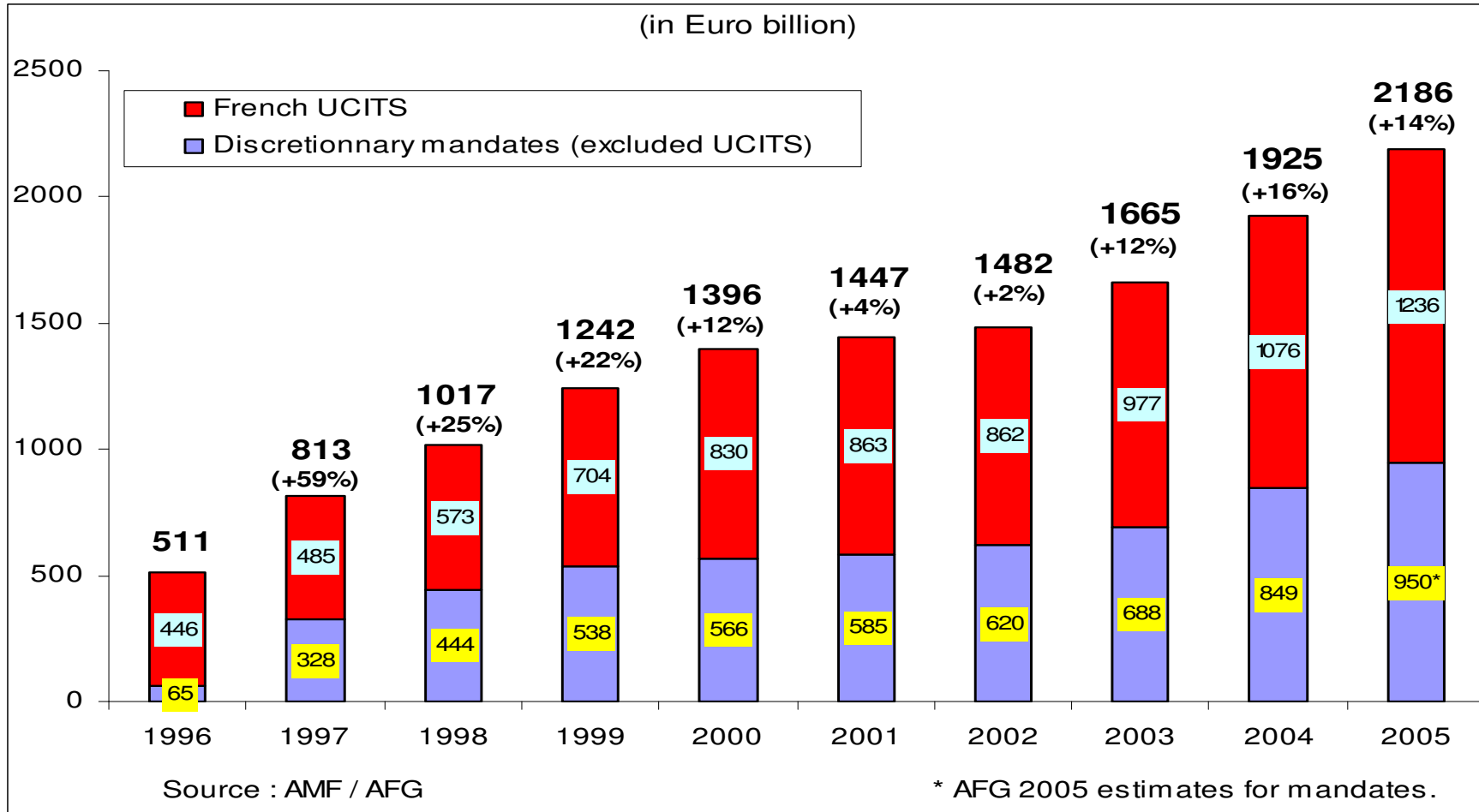
1. Introduction

1. **A deep and comprehensive experience of collective investment schemes in France**
2. **The Financial Activities Modernisation Act (1996): asset management strengthened as an independent profession**
3. **The French investment fund management industry is:**
 - **1st in Europe for financial mgt of CISs and 2nd for domiciliation**
 - **2nd at global level for financial mgt, after the US**

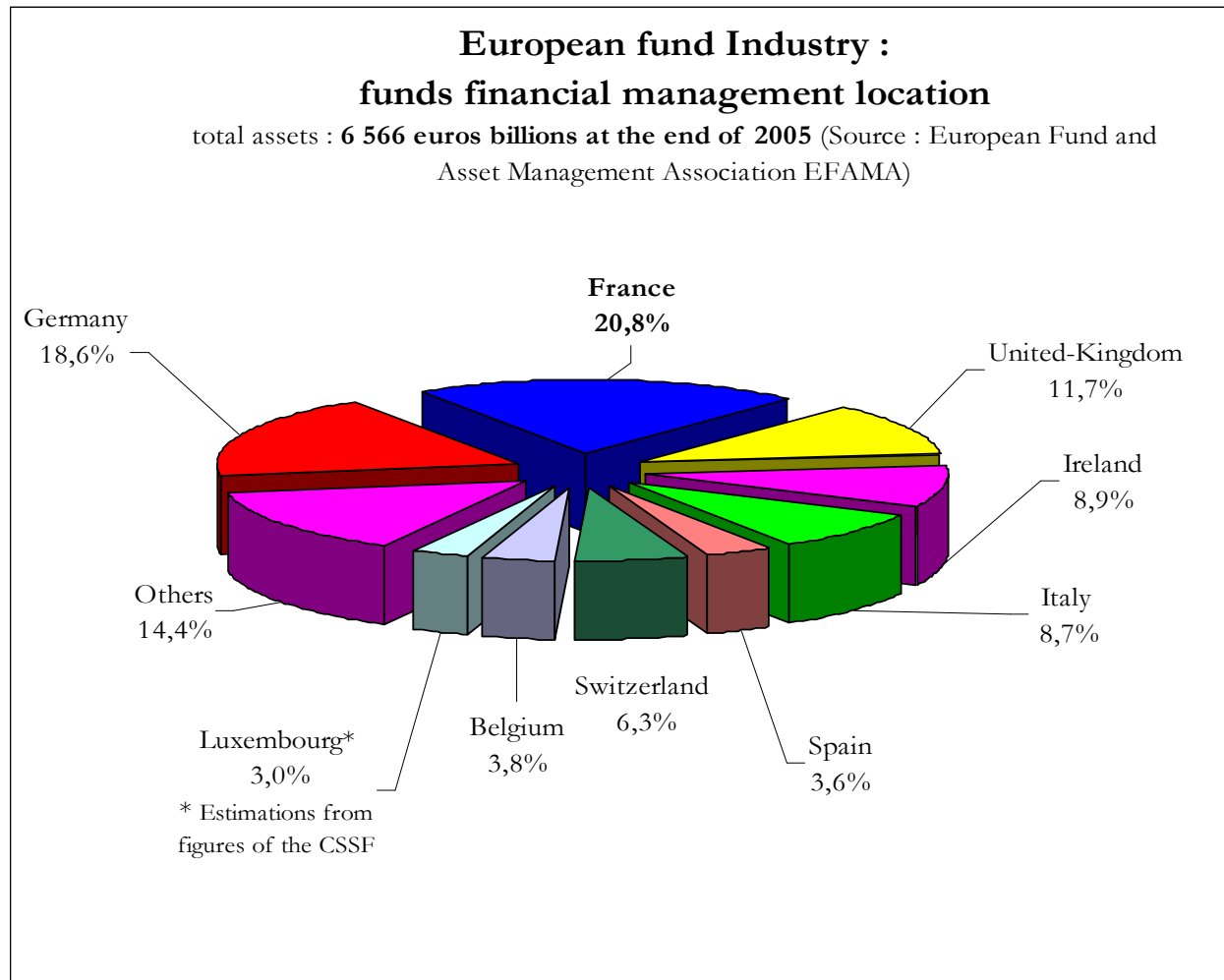
1 (cont'd). French invest. funds industry: some national figures

- 1. 485 management companies** (of which more than 400 are AFG members, i.e. 95% of AuM)...
- 2. ... managing 7,800 UCITS Funds** (UCITS: EU-compliant scheme) **and 3,000 Non-UCITS Funds**
- 3. ... representing 1250 Billion Euros for UCITS Funds and 120 Billion Euros for non-UCITS Funds**
- 4. ... representing 15% of Euronext Paris market capitalisation...**
- 5. ... and 20% of French households' financial assets**

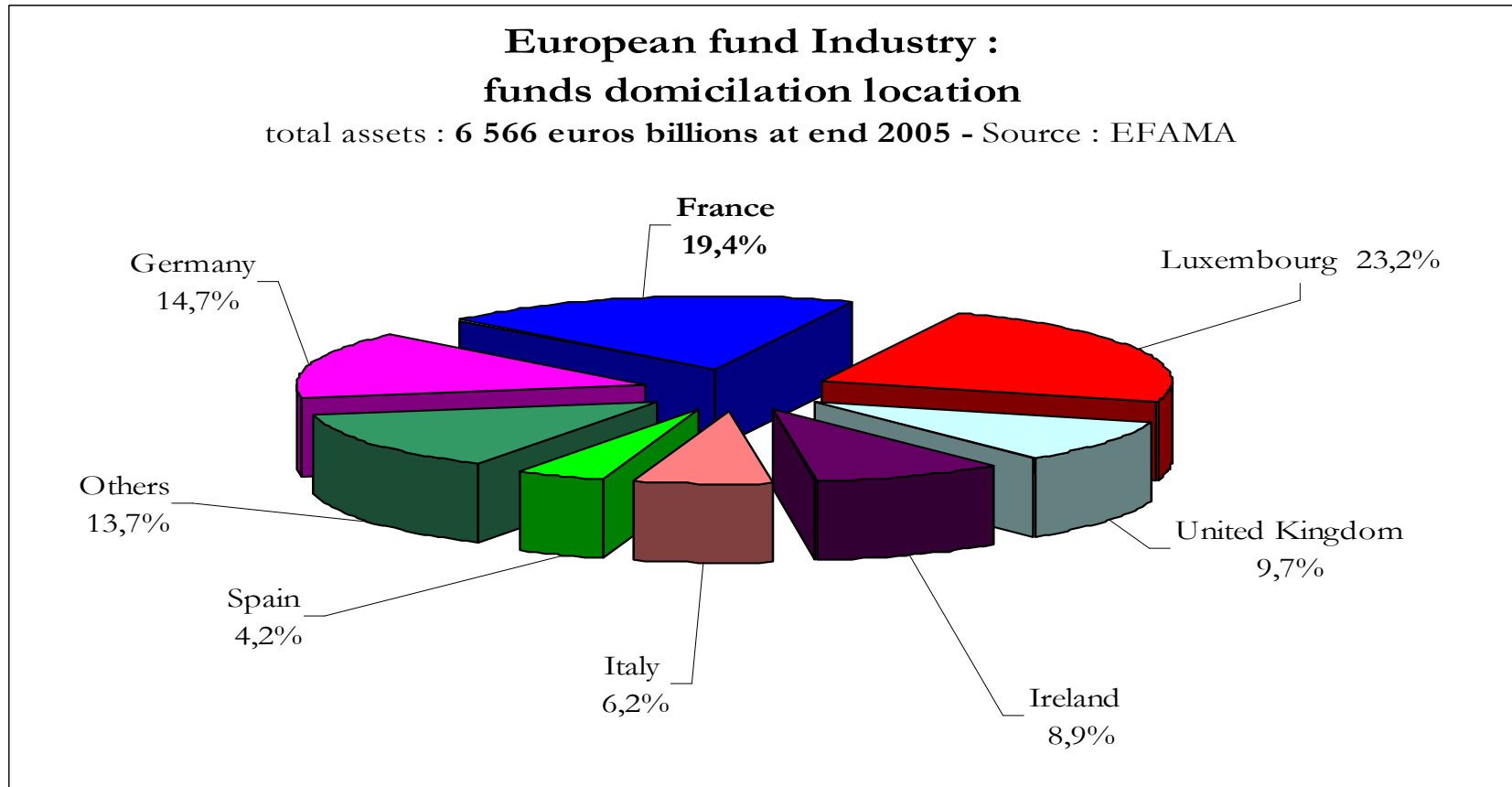
1 (cont'd). A permanent growth for funds in France



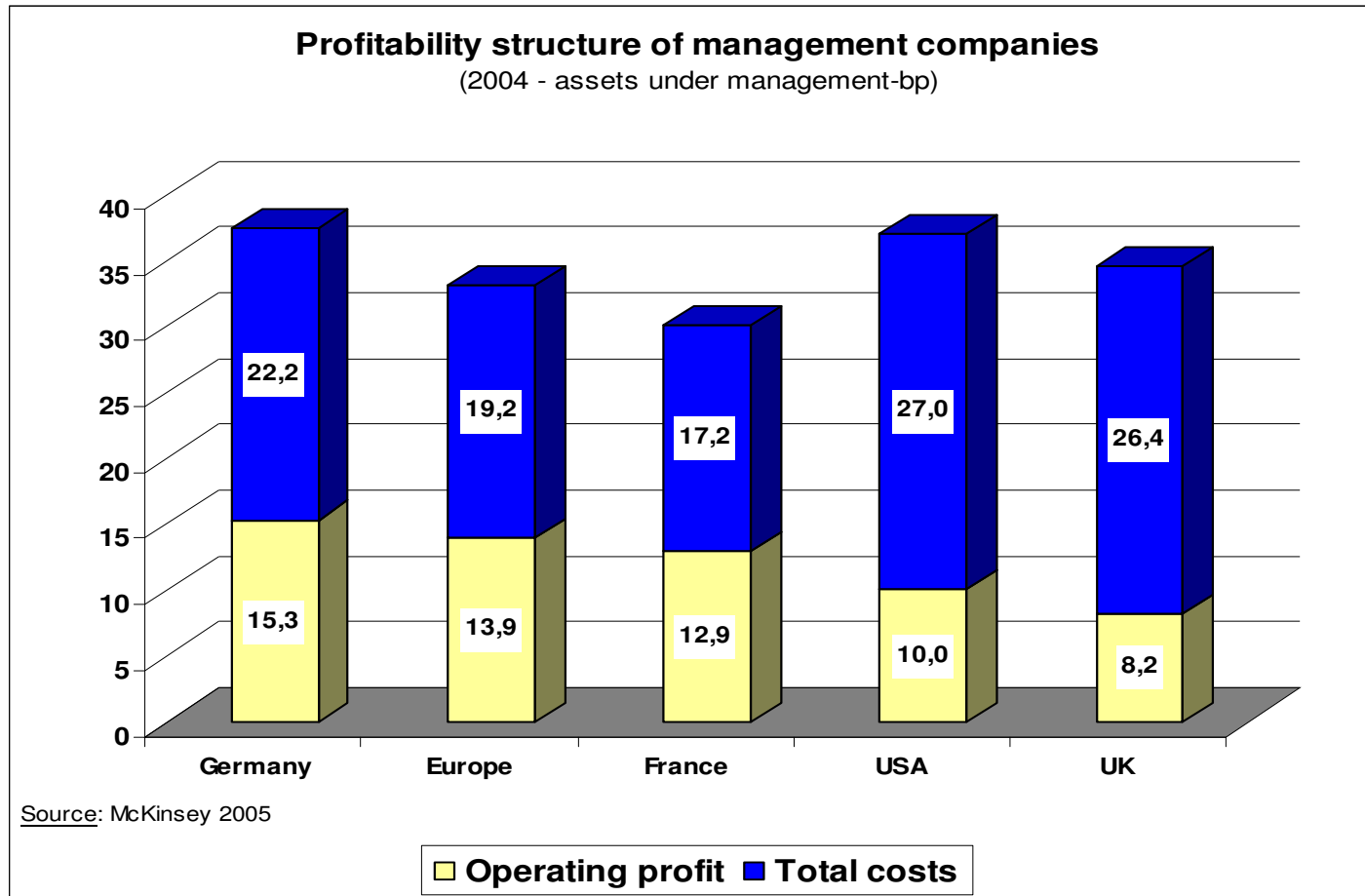
2. French invest. funds industry: a leader in Europe for financial mgt



2 (cont'd). Funds domiciliation location: European comparison



2 (cont'd). Profitability structure of French managt companies: European comparison



3. A regulated and organised industry

- 1. European Union level:** UCITS Directive of 1985 (modified in 2001 and under updating currently)
- 2. Strengthened at national level:** Law of 1988, modified in 2003, implementing UCITS Directive ; AMF (French SEC) General Regulation
- 3. Professional self-regulation referenced by law:** AFG codes of conduct approved by AMF and referred to by national law

4. A diversified and innovative product range

1. A wide range of UCITS funds: EU UCITS

Directive-compliant schemes; extended to balanced funds, guaranteed funds, structured funds, ETFs, etc.

2. 'Alternative investment' funds (non-UCITS funds) with state-of-the-art national regulations:

- * Hedge funds (ARIA; ARIA EL; contractual funds)

- * Private equity funds (FCPR; FCPI; FIP)

- * Real estate funds: (SCPI; OPCI)

3. Employee Savings Funds (FCPE; PERCO-close to US 401K)

5. Legal structures of French investment funds

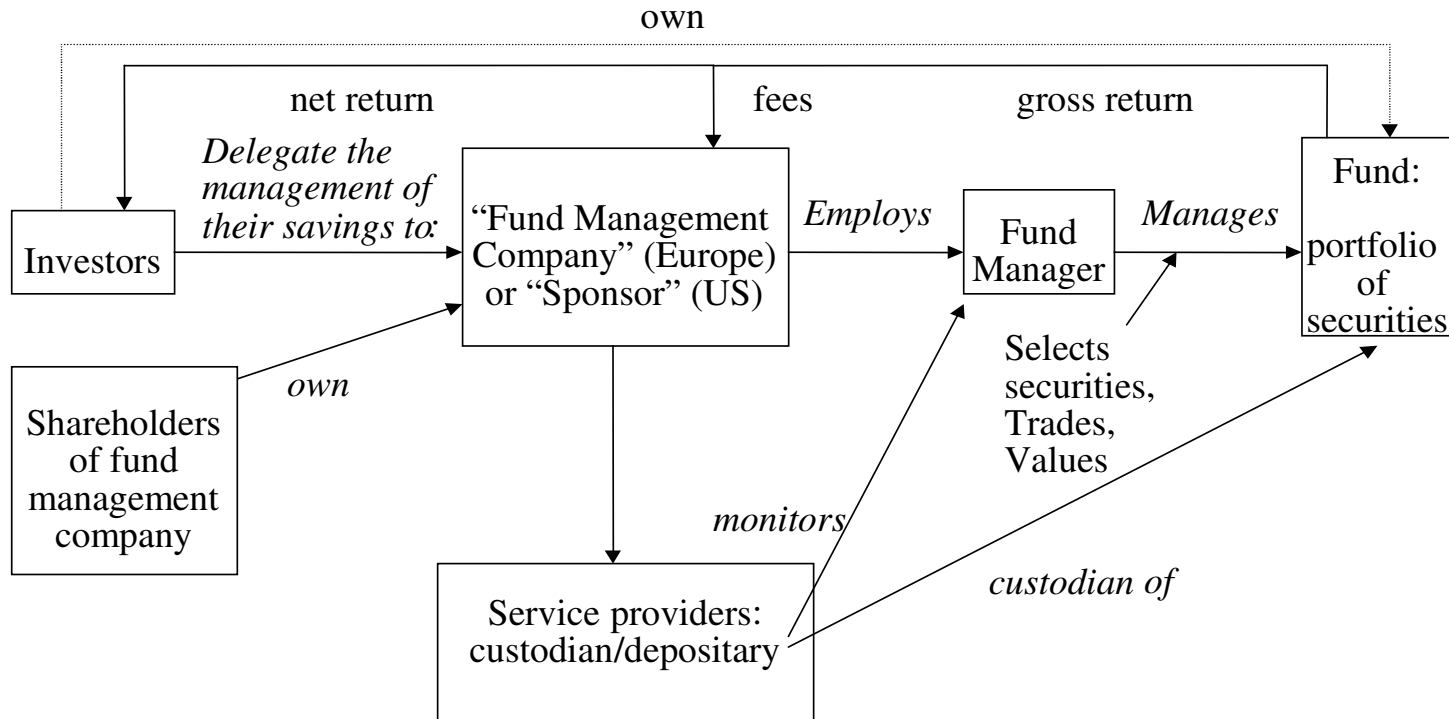
SICAVs (Sociétés d'Investissement à Capital Variable):

- Open-ended investment companies
- Company Law

FCPs (Fonds communs de placement):

- Contractual form; 'co-ownership' of transferable securities
- Contract Law

5 (cont'd). Structure of an investment fund



6. Strong obligations for the management company (beyond the EU UCITS Dir.; to be reinforced through the EU MiFID Dir.)

1. Authorised (and monitored) by the national securities regulator

2. Organisational requirements (decision-making procedures; adequate internal control and compliance mechanisms; adequate professional skills and knowledge; ability for independent pricing of assets; data recording; risk management policies; fire-walls; etc.)

3. Obligations of conduct of business (fiduciary duty; best interests of clients; suitability and appropriateness tests)

4. Regulatory capital requirements

6 (cont'd). Internal controls: internal audit and compliance functions

1. **Two functions more and more regulated** at EU level and reinforced at French level
2. **Internal Audit:** Prevention and Management of risks
3. **Compliance Function:** imposed by the regulator and developed by the industry itself; conduct of business obligations.

7. Crucial function and role of the depository

- 1. The depository must be legally and structurally independent** (in line with IOSCO principles): different entity from the investment company; must have a registered office in France
- 2. The list of depositaries set up by the Ministry of Economy** (=> French depositaries are composed of banks, insurance companies, Banque de France, Caisse des Dépôts, ...)
- 3. Two core functions: safe keeping assets and monitoring the ManCo** (e.g. how transactions are conducted and NAVs calculated by the ManCo)
- 4. Financial liability**

8. Conclusion

1. There has been a **large volume of investments for decades** now...
2. ... and there is a **regular upward trend** in those investments...
3. ... Partly because there was **no scandal in French funds** for decades
4. One part of the explanation may lie in the current **high level of investor protection**, preserving the integrity of the industry
5. For international comparison, see for instance the **BoNY international survey on mis-selling** (Sept. 2004)
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