



Français

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Recovering losses incurred by the Fonds de Garantie des Dépôts (Deposit Guarantee Fund)

Printable format 

The Fonds de Garantie des Dépôts has two alternative courses of action for recovering losses incurred:

- **Subrogated proceedings** by which the rights and claims of a depositor, up to the value of the compensation paid, towards a defaulting institution are transferred to the Fonds de Garantie des Dépôts. This alternative is only possible following an instance of a bank in default.
- **Action for damages** taken against the legal directors or shadow directors, with a view to recovering the amounts that the Fonds de Garantie des Dépôts has paid as part of an engagement for a bank in default or a preventive engagement. This action is designed to penalise the faults that have led to the engagement of the Fonds de Garantie des Dépôts, management errors caused by non-compliance with rules governing banking activities.

These two courses of action can be taken simultaneously: subrogated action against the defaulting institution and an action for damages against the directors, individuals, company officers or legal entities and generally, the main shareholders.

The following are the main features:

1. Subrogated action

According to article [L 312-6](#) of the *Code monétaire et financier* (French monetary and financial code), "*the Fonds de Garantie des Dépôts assumes the rights of the beneficiaries up to the value of the amounts paid.*"

This legally constituted transfer is designed to enable the Fonds de Garantie des Dépôts to recover all or part of the amounts paid to depositors as part of collective proceedings taken against the institution since its default.

It should be noted that both depositors and the Fonds de Garantie des Dépôts are exempt from the declaration stated in article L 621-43 of the French Commercial Code in respect of debts falling within the scope of engagement of the Fonds de Garantie des Dépôts.

2. Action for damages

WARNING !

The following English translations have been prepared for the convenience of English-speaking readers. However, only the legal french texts have any legal value. Consequently, these translations may not be relied upon to sustain any legal claim, nor should it be used as the basis of any legal opinion. The *Fonds de Garantie des Dépôts* expressly disclaims all liability for any inaccuracy here in.

to KNOW !

The Management Board (3 members) acts in the name and on behalf of the *Fonds de Garantie des Dépôts*. The chairman, whose appointment is approved by the French Finance Minister, is a member of the *CECEI* and may request to be heard by the French banking commission.

According to article [L 312-6](#), the *Fonds de Garantie des Dépôts* is entitled to "undertake any legal action for damages against legal directors or shadow directors of institutions for which it is engaged for purposes of recovering all or part of the payments it has made".

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