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Regulation 99-05 of 9 July 1999, relating to the guarantee of deposits and other repayable funds received by credit institutions having their headquarters in France or in the Principality of Monaco

As amended by Regulations-99-14 of 23 September 1999 and 2002-04 of 15 July 2002

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Article 1

The deposit guarantee fund referred to at Article L. 312-4 of the Monetary and Financial Code shall compensate, under the conditions set forth herein, the deposits and other repayable funds received by credit institutions authorised by the *Comité des Etablissements de Crédit et des Entreprises d'Investissement*."

Article 1.1 - Credit institutions having their headquarters in metropolitan France or in the overseas departments shall be members of the deposit guarantee fund.

Credit institutions having their registered office in the territorial unit (*collectivité territoriale*) of *Saint-Pierre-et-Miquelon*, in the departmental unit (*collectivité départementale*) of *Mayotte* or in the Principality of Monaco shall be members of the deposit guarantee fund.

Credit institutions having their registered office in the overseas territories or in *Nouvelle Calédonie* shall be members of the deposit guarantee fund.

TITLE I - Guaranteed deposits and other repayable funds

Article 2

Deposits and other repayable funds guaranteed pursuant to *Article L. 312-4 of the Monetary and Financial Code* and this Regulation, hereinafter referred to as the "deposits", shall mean any credit balance resulting from funds left in an account or from temporary situations deriving from normal banking transactions which a credit institution must repay under the legal and contractual conditions applicable, particularly in clearing arrangements. The deposits thus defined shall include guarantee deposits, when they become repayable, and sums due on production of interest-bearing notes and payment media of any kind issued by the institution and cash deposits, including those made to guarantee or cover positions taken on a market in financial instruments, when such deposits relate to an investment service or to the clearing or custody of financial instruments provided by such institution.

For the credit institutions referred to in the first paragraph of Article 1.1, the deposits referred to in the preceding paragraph shall include those in the books of their secondary establishments located on the territory of the French Republic or in the Principality of Monaco and in those of their branches established in other States party to the agreement on the European Economic Area.

For the credit institutions referred to in the second and third paragraphs of Article 1.1, the deposits referred to in the first paragraph shall include those in the books of their secondary establishments located on the territory of the French Republic or in the Principality of Monaco.

Article 3

The following shall be excluded from repayment by the guarantee fund:

1. Deposits made by the following:
 - a) credit institutions and investment firms on their own behalf and for their own account,
 - b) insurance undertakings,
 - c) collective investment organizations,
 - d) pension organizations and funds,
 - e) persons referred to in *Article L. 518-1 of the Monetary and Financial Code*,
 - f) members with personal liability and limited partners holding at least 5% of the credit institution's capital, directors, members of the executive board and supervisory board, managers and statutory auditors of the institution and any depositor having similar status in other companies in the same group,
 - g) third parties acting on behalf of the persons referred to in f) above,
 - h) companies which have direct or indirect shareholding links giving one of the linked undertakings effective control over the others,

- i) other financial institutions within the meaning of *Article L. 511-21, point 4 of the Monetary and Financial Code*;
2. Deposits arising out of transactions in connection with which the depositor has been convicted for the crime of money laundering under the terms of Articles 222-38, 324-1 or 324-2 of the Penal Code or Article 415 of the Customs Code;
 3. Deposits for which the depositor has, on an individual basis, obtained from the same credit institution rates and financial concessions which have helped to aggravate its financial situation;
 4. Because of their specific nature:
 - a) deposits made by government and central administrative authorities,
 - b) liabilities forming part of the institution's own funds as defined in Regulation 90-02 of 23 February 1990 as amended on own funds,
 - c) non-nominative deposits other than sums due against payment media of all types issued by the institution,
 - d) the negotiable debt securities referred to at *Article L. 213-1 of the Monetary and Financial Code* as amended containing various economic and financial provisions,
 - e) other debt securities issued by the same credit institution and liabilities arising out of own acceptances and promissory notes,
 - f) deposits in currencies other than those of States party to the agreement on the European Economic Area, with the exception of the CFP franc.

Article 4

Deposits held when an institution's authorization is revoked or when an institution is struck off shall continue to be covered by the guarantee fund.

TITLE II - Maximum compensation

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Article 5

5.1 - The limit on compensation for each depositor shall be € 70,000.

5.2 - For the credit institutions referred to in the first paragraph of Article 1.1, this limit shall apply to all of the same depositor's deposits with the same credit institution, irrespective of the number of deposits, the location on the territory of the French Republic, in the Principality of Monaco or in the European Economic Area and, subject to the provisions of Article 3.4(f), the currency concerned.

5.3 - For the credit institutions referred to in the second paragraph of Article 1.1, this limit shall apply to all of the same depositor's deposits with the same credit institution, irrespective of the number of deposits, the location on the territory of the French Republic or in the Principality of Monaco and, subject to the provisions of Article 3.4(f), the currency concerned.

5.4 - The limit on compensation for depositors who are customers of the credit institutions referred to in the third paragraph of Article 1.1 is equal to the equivalent value in CFP francs of the amount set forth at Article 5.1, obtained by applying the parity defined pursuant to Article L. 712-2 of the Monetary and Financial Code.

This limit shall apply to all of the same depositor's deposits with the same credit institution, irrespective of the number of deposits, the location on the territory of the French Republic or in the Principality of Monaco and, subject to the provisions of Article 3.4° f), the currency concerned.

Article 6

The share of each depositor in a joint account shall be taken into account in calculating the limit mentioned in the preceding Article. In the absence of special provisions, such account shall be divided equally amongst the depositors.

Deposits in an account to which two or more persons are entitled as shareholders or members of an association or any similar grouping not having legal personality shall be aggregated and treated as if made by a single depositor for the purpose of calculating the same limit.

When the depositor is not entitled to the sums deposited in the account, it is the person entitled to them who is covered by the guarantee, provided that such person has been identified or is identifiable before the date on which it is determined that the deposits are unavailable. If several persons are entitled, the share of each under the arrangements subject to which the sums are managed shall be taken into account when the limit referred to in the preceding Article is calculated.

TITLE III - Terms and time limits for compensation

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Article 7

Except in cases where reorganization or liquidation proceedings are initiated, the *Commission Bancaire*, after determining that deposits are unavailable twenty-one days at the latest after first having established that a credit institution has not repaid a due and payable deposit for reasons that may be related to its financial situation and that it appears unlikely that repayment will be made soon, shall immediately ask the deposit guarantee fund to intervene under the terms of the first paragraph of *Article L. 312-5 of the Monetary and Financial Code* and shall notify the credit institution that it has been struck off.

Article 8

On the basis of documents furnished by the credit institution concerned, the guarantee fund shall verify depositors' claims in respect of the unavailable deposits and shall promptly inform them by registered letter with acknowledgment of receipt that the deposits

are unavailable. The letter shall inform each depositor of the amount and nature of deposits covered by the deposit guarantee and of claims that are excluded from compensation under the terms of Articles 3 and 5 of the present Regulation.

It shall inform depositors that they have fifteen days in which to make known all remarks relevant to their compensation or to challenge the proposed breakdown and, where relevant, to choose the currency in which they wish the compensation to be paid. On expiry of this deadline, the guarantee fund shall begin paying compensation under the conditions set forth at Article 9.

The letter mentioned in the first paragraph shall inform depositors of the terms and conditions and of the procedures to be followed, if reorganization or liquidation proceedings have been initiated with respect to the defaulting credit institution, in order to submit claims excluded from compensation by the deposit guarantee fund to the creditors' representative or to the liquidator appointed by the commercial court.

The fund shall compensate the claims it has admitted in respect of the guarantee within two months of the request made by the *Commission Bancaire*. When the circumstances so warrant, the guarantee fund may apply to the *Commission Bancaire* for an extension of this time limit, which may not exceed two months. The *Commission Bancaire* may, at the guarantee fund's request, grant two further extensions at most, neither of which shall exceed two months.

The guarantee fund may not invoke the time limits laid down in the first and third paragraphs above to deny benefit of the guarantee to any depositor who furnishes proof that he was unable to assert in time his claim to payment under the guarantee.

Article 9

9.1 - The compensation of the depositors of the credit institutions referred to in the first and second paragraphs of Article 1.1 shall be paid in euros.

Deposits in CFP francs shall be converted into euros at the parity in effect on the date on which the deposits became unavailable.

Deposits in foreign currency shall be converted into euros at the rate applying on the date on which the deposits became unavailable.

Depositors domiciled in the geographical zones referred to in the third paragraph of Article 1.1 may ask to be compensated in CFP francs.

9.2 - The compensation of depositors of the credit institutions referred to in the third paragraph of Article 1.1 shall be paid in CFP francs.

Deposits in euros shall be converted into CFP francs at the parity in effect on the date on which the deposits became unavailable.

Deposits in foreign currency shall be converted into CFP francs at the rate applying on the date on which the deposits became unavailable.

Depositors domiciled in the geographical zones referred to in the first paragraph of Article 1.1 may ask to be compensated in euros.

9.3 - Notwithstanding the time limits laid down in the fifth paragraph of Article 8, when the depositor or any other person having entitlement to or an interest in sums held in an account is under investigation on suspicion of money laundering under the terms of Articles 222-38, 324-1 or 324-2 of the Penal Code or Article 415 of the Customs Code, the guarantee fund shall suspend the corresponding payments pending the court's final decision.

Article 10

If a reorganization or liquidation procedure has been initiated with respect to a credit institution and the deposit guarantee fund has intervened with respect to the same credit institution, the fund shall provide the creditors' representative or the liquidator appointed by the commercial court with a detailed list for each depositor of the claims it has paid and of claims that have not been paid under the terms of Articles 3 and 5 of the present Regulation.

TITLE IV - Information provided to depositors

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Article 11

Credit institutions subject to the present Regulation shall furnish depositors and any other person making such request with all relevant information about the deposit guarantee mechanism, including in particular the level and scope of the cover provided.

Depositors shall be informed of any changes.

Credit institutions subject to the present Regulation may not use such information for advertising purposes.

Article 12

Depositors may obtain further information about terms or time limits for compensation and about the formalities for obtaining compensation from the guarantee fund on request.

Article 13

Information intended for depositors and documents relating to the conditions to be met and formalities to be accomplished in order to benefit from a payment under the deposit guarantee arrangements shall be provided in French, in a detailed manner that is readily comprehensible to any depositor.

TITLE V - Sundry provisions

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Article 14

Credit institutions that manage a mutual guarantee fund shall inform persons asked to participate in such fund of the conditions under which their contributions will be repaid. The institutions shall also inform the depositor when such sums become repayable, under the terms of the guarantee fund's by-laws.

Managing institutions shall state the conditions under which such sums are covered by the deposit guarantee fund, and in particular

shall specify that contributions are covered by the above-mentioned fund only when they have become repayable.

Article 15

Notwithstanding the provisions of Article 9 of the present Regulation, until 31 December 2001 depositors may ask to be compensated in French francs.

Article 16

The present Regulation shall take effect immediately.

Until the guarantee fund has been finally put in place, in the event of an incident the *Commission Bancaire* shall cause the credit institution concerned to take appropriate steps to identify and verify claims. In accordance with Article 75-III of the above-mentioned Act of 25 June 1999, the *Commission Bancaire* shall decide how to allocate the contributions it has called up; compensation shall be paid on behalf of the guarantee fund, under the conditions laid down in the present Regulation, by the Treasury, which is responsible for collecting and managing the above-mentioned contributions. All elements of the calculation specific to each member are covered by a professional secrecy obligation.

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