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Regulation 99-06 of 9 July 1999, relating to the resources and operation of the deposit guarantee fund

As amended by Regulations-2000-07 of 6 September 2000, 2002-04 of 15 July 2002 and 2002-08 of 21 November 2002

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TITLE I The Fund's Financial Resources

Article 1

Credit institutions that belong to the deposit guarantee fund provided for at *Article L. 312-4 of the Monetary and Financial Code* and that are authorized in France must subscribe a certificate of association before 31 December 1999 and pay a contribution in two equal parts, one before that date and the other before 31 December 2000, the amount of which shall be determined using the calculation method described in the annex to the present Regulation. At 31 December 1999, the total overall amount of the certificates of association subscribed in this way shall be five hundred million euros. It shall be increased by the contributions of institutions authorized after that date and reduced by the repayments provided for at Article 9.

Article 2

The certificates of association shall be remunerated at an annual rate determined by the deposit guarantee fund when it closes its accounts. Such rate may not exceed the average yield as determined by the *Banque de France* on ten-year government bonds issued in the calendar year in which the certificates are subscribed. The rate shall be replaced at ten-year intervals by the rate for the bonds issued during the year in which the previous reference stock is reimbursed.

Such remuneration shall be cancelled if the fund finds that members' contributions will be insufficient to cover charges resulting from the interventions provided for at *Article L. 312-5 of the Monetary and Financial Code*. The fund shall inform the Minister for Economic Affairs and the Governor of the *Banque de France*, acting as chairman of the *Commission Bancaire*, of this situation.

Article 3

The amount of contributions shall be determined in such a way as not to endanger the stability of the banking system. Contributions, apportioned between the members as set forth in the annex to this Regulation, shall be paid in a single annual instalment unless it is necessary to increase the contribution during a calendar year by augmenting the annual contribution or calling up an exceptional contribution.

Article 4

The guarantee fund shall collect the amount of contributions due. Member institutions must pay contributions or make deposits fifteen days at the latest after receiving notice to do so as set forth in the annex to the present Regulation. The fund shall inform the *Commission Bancaire* of any delay or difficulty in collecting a contribution.

Article 5

New members authorized in France must subscribe a certificate of association and pay a supplementary contribution, in addition to the amount of the annual contribution, for five years in accordance with the provisions of the annex to the present Regulation.

Article 6

A member institution is not required to pay seventy per cent of the total amount of an annual contribution provided that the institution:

- undertakes to pay at the fund's request the unpaid fraction of contributions for five years from the due date for payment of the contribution. To execute this commitment, the guarantee fund shall deduct such amount from the guarantee deposit constituted in accordance with the conditions defined hereinafter and notify the institution concerned of this;
- constitutes in the fund's books at the due date for payment of the contribution a guarantee deposit frozen for five years, in an amount equal to the unpaid fraction of the contribution. The remuneration of guarantee deposits may not exceed the yield on government bonds with a maturity of five years at issue as determined by the Banque de France on 16 October, the date as of which members are liable for payment of the amount of the contribution for which the deposit is constituted, or on the next working day as applicable. Such remuneration shall be cancelled if the resources obtained by investing the fund's assets on behalf of the deposit guarantee prove insufficient to cover charges resulting from the interventions provided for at *Article L. 312-5 of the Monetary and Financial Code*.

Should an institution cease to be a member, the amounts contained in the guarantee deposit constituted by this member shall be transformed, as of right and without any other formality, into contributions. Guarantee deposits may be remunerated until the date of such transformation as of right. Such remuneration shall be equal to the interest paid on a hypothetical interbank deposit constituted on the first day of the year during which the decision takes effect and for which an interbank rate is ascertained, maturing at the date closest to the date of such transformation unless, before that date, the *Commission Bancaire* has asked or proposed that the deposit guarantee fund should intervene.

Article 6-1

Once the fund's operating costs, the remuneration of the certificates of association, as well as any remuneration on the guarantee deposits have been covered, recoveries of all types on claims on incidents settled by the fund on behalf of the deposit guarantee, as well as the income from investing all the assets held on behalf of the deposit guarantee, shall be set aside for the deposit guarantee fund.

Article 7

The losses shall first be charged against the amounts set aside on behalf of the deposit guarantee then against the amount of contributions paid up till the end of the current year for an amount equal to € 200 million or the available amount if it is lower. Beyond such amount, the fund shall call up unpaid fractions or contributions up to half the amount of the uncovered losses, by order of priority according to the due date for the payment of the contribution. The remainder of the losses shall be charged first against the balance of contributions paid, then against the balance of the unpaid fractions of the contributions, in the same order, before being charged against the remuneration then against the par value of the certificates of association.

The fund may not call up unpaid fractions of the contribution after five years have elapsed from the time the above-mentioned guarantees are constituted. As of such date, institutions may freely dispose of their guarantee deposits.

The present Regulation shall consider as losses the fraction of charges, including calculated charges, which exceed all income of the current year, before any remuneration of the guarantee deposits.

Article 8

If the fund finds that the losses exceed all the fund's resources other than the certificates of association, it shall reduce the par value of each certificate of association in proportion.

The guarantee fund's auditors shall decide on the amount of the provisions taken into account in order to make such reduction. The fund's decision shall be notified to members within fifteen days.

Article 9

When the decision to revoke an institution's authorisation takes effect, its certificate of association shall be reimbursed, at the latest by the end of the month following the notification to the deposit guarantee fund by the Comité des Etablissements de Crédit et des Entreprises d'Investissement of the date at which the revocation of authorisation takes effect, at its par value minus any reductions made under the terms of Article 8. This reimbursement is made at par value plus any accrued remuneration as at the date of such reimbursement. Such remuneration shall be equal to the interest paid on an interbank deposit which, on the one hand, shall be constituted on the first day of the year in the course of which the decision takes effect and for which an interbank rate is found and which, on the other hand, shall fall due at the date closest to the reimbursement date of the certificate, unless the fund, prior to this date, has found that the resources, described in Article 2, are insufficient and does not then, under the terms of said article, have to pay such remuneration.

On the take-over of one member institution by another member institution or the transfer of the business of one member institution to another member institution entailing a revocation of authorization without the transferor institution being dissolved, the income from the reimbursement of the certificate shall be added to the amount of the certificate of the institution which has carried out the take-over or to the transferee institution. In these cases, the remuneration is not reimbursed, but the new amount of the certificate serves as a basis for the calculation of the remuneration accruing to the institution which has carried out the take-over or to the transferee institution, as from the start of the year under consideration. However, if the deposit base of the institution taken over or of the institution whose entire business has been transformed is nil, the income from the reimbursement of his certificate is paid to the institution which has carried out the take-over institution or to which the business is transferred under the terms and conditions set forth in the first paragraph of the present article.

By way of an exception to the last paragraph of Article 6, the guarantee deposit of the institution taken over or of the institution whose entire business has been

transferred shall also be added to the guarantee deposit of the institution which has carried out the take-over (transferee institution).

TITLE II

Appointment of members of the Supervisory Board

Article 10

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The members of the fund's supervisory board shall be individuals who are accountable managers within the meaning of *Article L. 511-13 of the Monetary and Financial Code* of one or more member institutions. They shall be either appointed directly by an institution referred to at Article 12 or elected on the proposal of a member institution in accordance with the provisions of Article 13.

Article 11

The members of the supervisory board shall be appointed or elected for a four-year term of office.

Should a member of the supervisory board resign or be prevented from carrying out his duties, the member institution which appointed him or put him forward may appoint another individual to replace the indisposed or resigned person until his term of office expires. Such person must also be a manager, as defined by *Article L. 511-13 of the Monetary and Financial Code*, of one or more member institutions. Should a member of the supervisory board cease to occupy a managerial post in an institution affiliated to the same network or a part of the same mixed or financial group, within the meaning of *Article L. 511-20 of the Monetary and Financial Code*, he shall be deemed by the present Regulation to be prevented from carrying out his duties, unless said institution confirms his appointment or the maintenance of his representative mandate at the latest by the end of the month in which the member was prevented from carrying out his duties. The member's appointment or authority may be confirmed only in the event of the member continuing to hold a managerial position in one or more member institutions.

Article 11-1

Within the meaning of this Article, a directly represented institution is an institution that has appointed a member of the supervisory board or put forward a candidate who has been elected. If an institution directly represented on the supervisory board loses its right to be represented, a new appointment shall be made under the following conditions for the remainder of the member's term of office, unless the institution in question has lost its right as a result of restructuring without a change of control.

The management board of the deposit guarantee fund shall, within three months at most, call a meeting of the college comprising all the credit institutions concerned except for those represented directly or automatically under the terms of Article 13.1 of this regulation. The election shall take place on a relative majority basis. Credit institutions that are members of the college may, within one month following the election, advise the deposit guarantee fund if they wish the newly elected member to represent them.

However, if the event giving rise to a new appointment occurs within a 12-month period preceding the expiry of a term of office, the supervisory board shall, within three months at most, choose the institution that appoints a new member from among the institutions forming the college referred to in the preceding paragraph. The new member shall dispose of the votes of the institution he represents.

Article 12

The right to appoint a member of the supervisory board is recognized on the basis of the sum of certificates of association held and contributions actually paid in up to the end of the year preceding the appointment and the outstanding amount of guarantee deposits actually constituted in the fund's books at the end of the same year. The following are aggregated for this purpose: all contributions and certificates held by institutions forming part of the same network as defined at *Article L. 511-31 of the Monetary and Financial Code*, and all contributions and certificates of credit institutions not affiliated to a network, including the parent undertaking if any, that are part of the same financial or mixed group within the meaning of *Article L. 511-20 of the Monetary and Financial Code*. If the parent undertaking of a financial or mixed group is affiliated to a network, the group aggregate shall be added to the network aggregate.

The *Commission Bancaire* shall notify the capacity to appoint *ex officio* membership to the institutions concerned and to the *Association Française des Etablissements de Crédit et des Entreprises d'Investissement* and to the *Fonds de garantie des dépôts* before 31 December of the year preceding the year in which the members are appointed. In the case of networks or financial or mixed groups, notification shall be made respectively to the central body, the parent undertaking if it is a member or, failing that, the member institution from the group which pays the largest contribution. The members concerned shall notify the name of their representative one month at the latest before they take office.

The voting rights of member institutions that fail to make such notification shall be exercised by the appointed or elected member of the supervisory board who represents the largest contribution or contributions.

Article 13

The other members of the supervisory board shall be elected by member institutions that are not *ex officio* members, except for those that are represented automatically under the terms of Article 11 of the present Regulation, grouped into two colleges, one including institutions affiliated to a central body, from which two members shall be chosen, and the other including institutions not affiliated to a central body, from which six members shall be chosen.

Institutions wishing to do so shall make known their candidates to the fund at the latest on 31 January of the year in which the election of members is due to take place.

The two colleges shall meet simultaneously before 1 March of the year in which the term of office of the members of the supervisory board expires, the meeting being called by the fund's management board. The notice of meeting shall state the candidates put forward for each college and the number of votes at the disposal of each member. For the election, each member shall dispose of a number of votes equal to the sum of the certificates of association it holds, contributions actually paid in up to the end of the year preceding the election and the outstanding amount of guarantee deposits actually constituted in the fund's books at the end of the same year. Any contributions paid by institutions taken over by a member institution shall be added to the total. Institutions affiliated to a central body shall be represented by the central body, which shall dispose of a number of votes equal to the sum of the votes of all the institutions in the network.

An open ballot shall be held within each college. Members shall be elected on a single ballot. The candidates with the most votes shall be deemed to have been elected.

If the number of candidates is equal to the number of posts to be filled, any member of the college may, by way of an exception to the provisions of the second paragraph above, put forward a candidate at the meeting of the college. If no new candidate is forthcoming, the candidates already put forward shall be deemed to have been elected.

Article 13-1

Institutions that are affiliated to the same network referred to at Article L. 511-31 of the Monetary and Financial Code or that are part of the same financial or mixed group within the meaning of Article L. 511-20 of the Code shall be represented either by the person notified to the deposit guarantee fund by the central body or by the person notified to the deposit guarantee fund by the institution of the group that has either been notified of the right to appoint an ex officio member or put forward a candidate who has been elected.

Article 14

When the choice of members referred to at Article 12 has been made, each credit institution that has not appointed a member of the supervisory board or put forward or voted for a candidate who has been elected must inform the supervisory board within one month of the name of the appointed or elected member of the supervisory board it has chosen to represent it when votes are taken during his term of office. This authority may be revoked only in the event of a change of control of the institution which appointed or put forward the representative member, or in the event of such member being indisposed or presenting his resignation. In that case, the guarantee fund shall inform the institutions concerned that they have one month after this notification to appoint a new representative, failing which the authority granted the member replacing the indisposed member shall be deemed the representative under the terms of the provisions of Article 11-1.

The voting rights of member institutions that fail to make such notification shall be exercised by the appointed or elected member of the supervisory board who represents the largest contribution or contributions.

For each year, the voting rights of which the members of the supervisory board dispose are those ascertained at 31 December preceding the year in question, pursuant to the provisions of Articles 12 and 13.

TITLE III Transitional provisions

Article 15

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The *Commission Bancaire* shall make the first calculation relating to the subscription of certificates of association and the payment, in a single instalment, of the first annual contribution to the guarantee fund one month at the latest after the present Regulation takes effect, on the basis of the data provided for in the annex to the present Regulation available at such date, established as at 31 December 1998. Authorized institutions dispensed from providing documents drawn up as at that date shall immediately pay the minimum contribution and subscribe a certificate of association in the minimum amount. Where appropriate, they shall subsequently pay contributions adjusted to take account of any sums they ought to have paid, under the conditions set forth in the annex to the present Regulation.

The *Commission Bancaire* shall call the first meeting of fund members. Called to appoint the supervisory board, it shall be held two months at the latest after notification of the results of the initial calculation. The appointments shall be made by applying the provisions of Article 12 to the amount of certificates of association and contributions due for 1999. The term of office of the members appointed in this way shall expire on 31 March 2004.

Funds earmarked for the paid-up share in 1999 of the subscription to certificates of association and for the annual contribution for 1999 must have been paid before the first meeting into a special account opened for the purpose with the *Banque de France*. Certificates of association shall be deemed to have been subscribed and may bear interest as set forth at Article 2 of the present Regulation once the fund's rules of procedure have been approved.

Article 16

For 2002, credit institutions authorised by the *Comité des Etablissements de Crédit et des Entreprises d'Investissement* having their registered office in the overseas territories, in New Caledonia or in the departmental unit of Mayotte will be asked to make a single contribution in the second half of 2002.

The amount of the subscription, calculated as set forth in the Annex to this Regulation on the basis of data as at 30 June 2002, shall be doubled for that instalment.

These institutions shall subscribe a certificate of association, calculated as set forth in the present Annex to this Regulation on the basis of data as at 30 June 2002.

By way of an exception to Article 5 of the present Regulation, credit institutions having their headquarters in the overseas territories, in Nouvelle Calédonie or in the collectivité départementale of Mayotte that were authorised before 1 January 2002 are not required to pay the additional subscription.

ANNEX

Calculating the apportionment of contributions between members

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1. Principles

The amount of certificates of association and annual contributions, hereinafter referred to as "members' contributions", shall be calculated in accordance with the provisions of this Annex.

1.1 Calculating ordinary contributions

Each member's contribution shall be equal, for each instalment, to the product of the variable overall amount of the instalment and the net share of risk attributed to it for such instalment; however, the contribution may not be less than 4,000 euros for the contribution and 4000 euros for the subscription of certificates of association.

The variable overall amount of each instalment is equal to the overall amount of the instalment minus the product of the minimum contribution multiplied by the number of members whose deposit base is nil.

The deposit base is equal to the amount of deposits and other repayable funds. The calculation includes the following euro- or CFP francs-denominated liabilities with regard to non-financial customers payable on the territory of the French Republic and in the Principality of Monaco: demand deposits, available factoring accounts, regulated savings accounts, time deposits, interest bearing notes and savings certificates and all liabilities relating to the accounts of non-financial customers. The accounts of insurance and capitalization undertakings are deducted from this total, the same applies to deposits made by companies which have direct or indirect capital links with the credit institution that confer on one of the linked undertakings effective control over the others, as well as deposits made by central governments and social security bodies.

A member's net share of risk is the ratio between its net risk amount and the sum of all members' net risk amounts.

Each member's net risk amount is equal to the deposit base, increased or reduced according to the financial situation indicators described in point 2 of the

present Annex.

If the deposit base cannot be calculated on the basis of reliable information established at the scheduled date because member institutions are late or deficient in providing the necessary information, the base calculated for the previous instalment shall be increased, for each instalment where such deficiencies exist, by 10% for the fraction of the gross base below three billion euros and by 5% for the fraction of the gross base above three billion euros, unless the institution can prove that it was prevented from duly providing the necessary information by reasons of force majeure. In such case, the deposit base shall be the average of the three preceding bases.

In the event of a member institution taking over another member institution or acquiring the business of another member institution, entailing a revocation of authorisation without the transferor institution being dissolved between the date at which information necessary for calculating the contribution is established and the date at which the contribution is due, such institution shall pay the contribution owed by the institution that has been taken over or by the institution whose entire business justifying membership of the guarantee fund has been transferred, unless the deposit base of the latter is nil.

By way of an exception to the provisions of the first paragraph, member institutions struck off pursuant to Article L. 312-5 I of the Monetary and Financial Code are exempted from contributing.

1.2 New members' specific contributions

1.2.1 Certificate of association

The amount of the certificate of association of institutions authorized after the present Regulation takes effect shall be equal to the product of the total amount of certificates of association and the member's net share of risk, calculated for the first instalment after joining the fund for which the documents used to calculate contributions must be provided. The certificate must be paid up in full at the latest at the same time as the contribution for the corresponding instalment.

1.2.2 Supplementary contributions

New members must pay a supplementary contribution in addition to the contribution set forth at point 1.1 of the present Annex for five instalments after joining the fund. The amount of the supplementary contribution is equal, for each instalment, to 20% of the product of the total amount, net of any charges, of contributions actually paid to the fund by the other members up to the instalment in question multiplied by the new member's net share of risk. This supplementary contribution shall be paid only if it is above or equal to 100 euros.

In the event of a merger, scission, total or partial business takeover or any other transaction that entails the transfer of assets previously included in the deposit base or gross risk indicator of another member institution, a new member's supplementary contribution shall be reduced by the share attributable to the amount of the assets concerned if the member makes such request and provides the *Commission Bancaire* with the data for the calculation of this reduction at the latest by the end of the sixth month following the date at which the data for the calculation of the contribution instalment is established.

1.3 The increases relating to the supplementary contributions of new members, which are linked to mistakes in declarations referred to in point 4 of the Annex, as well as those arising on the minimum amount of the contribution shall be added to the overall yearly amount of the contribution

2. Indicators of the financial situation, calculation of the net risk amount

In order to calculate the net risk amount, the deposit base shall first be increased where relevant by the gross risk indicator described in point 2.1 of the present Annex, then weighted by a minimum factor of 0.75 and a maximum factor of 1.25 by a linear transformation of the synthetic risk indicator described in point 2.2 of the present Annex. The minimum and maximum factors shall be 0.85 and 1.15 respectively for calculations made in 1999.

2.1 Gross risk indicator

The gross risk indicator shall be equal to one third of outstanding loans, up to a ceiling equal to the amount of the deposit base. It shall include the net amount of provisions for loans to non-financial customers held in France, including leasing and similar transactions, non-allocated securities, bad debts and related receivables.

If the deposit base cannot be calculated on the basis of reliable information established at the scheduled date because member institutions are late or deficient in providing the necessary information, the base calculated for the previous instalment shall be increased by 10% for each instalment where such deficiencies exist, unless the institution can prove that it was prevented from duly providing the necessary information by reasons of force majeure. In such case, the gross risk indicator shall be the average of the three preceding bases. The increase shall be 5% for the fraction of the gross indicator in excess of one billion euros.

2.2 Synthetic risk indicator

A synthetic risk indicator shall be calculated for all institutions whose deposit base is not nil at the closing date used as a basis for calculating a contribution. The synthetic risk indicator shall be the arithmetic mean of the following scores:

- a score relating to solvency,
- a score relating to risk diversification,
- a score relating to operating profitability,
- a score relating to maturity transformation, where relevant.

Scores shall be given on a scale of 1 to 3; the higher the score, the lower the quality.

If it is not possible to calculate one or more of these scores because member institutions are late or deficient in providing the necessary information, a score of 3 shall automatically be assigned in each case, unless the institution can prove that it was prevented from duly providing the necessary information by reasons of force majeure. In such case, the *Commission Bancaire* shall use the average of the three preceding scores for the score or scores concerned.

2.2.1 Score relating to solvency

A score of 1 shall be assigned to institutions whose original own funds as defined by the above-mentioned Regulation 90-02, from which shall be deducted, to the extent of the portion which exceeds the supplementary own funds, the equity holdings and subordinated claims as defined by Article 6 of said Regulation are at least equal to 9% of the total of the denominator set forth at Article 4 of the above-mentioned Regulation 91-05 or, where relevant, 112.5% of the total own funds requirement set forth in Regulation 95-02.

A score of 2 shall be assigned to institutions whose original own funds as defined by the above-mentioned Regulation 90-02, from which shall be deducted, to the extent of the portion which exceeds the supplementary own funds, the equity holdings and subordinated claims as defined by Article 6 of said Regulation are at least equal to 6% of the total of the denominator set forth at Article 4 of the above-mentioned Regulation 91-05 or, where relevant, 75% of the total own funds requirement set forth in Regulation 95-02.

A score of 3 shall be assigned to all other institutions.

If a credit institution is required to comply with the solvency ratio exclusively on a consolidated basis, the score shall be calculated, for all institutions included in the scope of consolidation, on the basis of own funds and risks established on a consolidated basis. If an institution is also required to comply with such regulations on an individual or sub-consolidated basis, the score shall be calculated on an individual or sub-consolidated basis.

2.2.2 Score relating to risk diversification

A score of 1 shall be assigned to institutions for which the sum of the ten largest exposures not eligible for refinancing by the European system of central banks is less than 30% of original own funds as defined by the above-mentioned Regulation 90-02, from which shall be deducted, to the extent of the portion which exceeds the supplementary own funds, the equity holdings and subordinated claims as defined by Article 6 of said Regulation.

A score of 2 shall be assigned to institutions for which the sum of the ten largest exposures not eligible for refinancing by the European system of central banks is less than 60% of original own funds within the meaning of Article 2 of the above-mentioned Regulation 90-02.

A score of 3 shall be assigned to all other institutions.

Large exposures taken into account for calculating these scores shall be calculated in accordance with the provisions of the above-mentioned Regulation 93-05; the ten largest exposures shall be used irrespective of the proportions in relation to own funds set forth in Article 1 of the above-mentioned regulation.

If a credit institution is required to comply with the above-mentioned Regulation 93-05 exclusively on a consolidated basis, the score shall be calculated, for all institutions included in the scope of consolidation, on the basis of own funds and risks established on a consolidated basis. If an institution is also required to comply with such regulations on an individual or sub-consolidated basis, the score shall be calculated on an individual or sub-consolidated basis.

2.2.3 Score relating to operating profitability

A score of 1 shall be assigned to institutions whose operating coefficient is lower than 65%.

A score of 1.5 shall be assigned to institutions whose operating coefficient is lower than 70%.

A score of 2 shall be assigned to institutions whose operating coefficient is lower than 75%.

A score of 2.5 shall be assigned to institutions whose operating coefficient is greater than or equal to 75% but lower than 85%.

A score of 3 shall be assigned to all other institutions.

The operating coefficient within the meaning of the present Regulation is the ratio between the sum of overheads, depreciation provisions and net provisions for tangible and intangible assets on the one hand and the sum of income from banking operations, ancillary income and sundry other income minus charges from banking operations, interest on bad debts and sundry charges. Overheads shall include personnel costs, taxes and outside services appearing on the profit and loss account.

The sum of the following items is included in the denominator: income from banking operations, recoveries of provisions for depreciation of investment

securities, ancillary income and invoiced expenses and the share of non-banking operations carried out jointly. Charges from banking operations, provisions for depreciation of investment securities, interest on bad debts and income paid back to co-suppliers are deducted from the above-mentioned sum. Shares of non-banking operations carried out jointly and headquarters expenses attributable to institutions shall be added to income, shares attributable to other participants shall be deducted.

The invoiced expenses attributable to the items included in the numerator shall be deducted from the numerator and the denominator of the operating coefficient as from the first half-yearly instalment of 2001.

2.2.4 Score relating to maturity transformation

The score relating to maturity transformation shall be calculated for institutions for which the assets and liabilities used to calculate the indicator represent at least 20% of the institution's total assets and liabilities, adjusted for suspense accounts and sundry debtors and creditors.

For the purposes of the present Regulation, the maturity transformation indicator is the ratio between, in the numerator, the actual transformation, and, in the denominator, the own funds referred to at Article 2 of the above-mentioned Regulation 91-01. The actual transformation is the difference between the amount of part of the assets with a residual maturity of more than one year plus bad debts and other capitalized securities and part of the signature commitments on the one hand, and the amount of liabilities with a residual maturity of more than one year plus part of the sight deposits and the amount of own funds.

The following are included in assets with a residual maturity of more than one year: the time deposits and fixed-term loans of institutions referred to at Article 5 of the above-mentioned Regulation 88-01, the time deposits and fixed-term loans of financial customers, financial loans and repurchase agreements, loans with an initial term of more than one year, the financial outstanding of leasing and similar transactions and financial rental transactions, and subordinated loans.

The following are included in liabilities with a residual maturity of more than one year: the time accounts and fixed-term borrowings of institutions referred to at Article 5 of the above-mentioned Regulation 88-01, the time deposits and fixed-term borrowings of financial customers, reverse repurchase agreements, securitized debt, housing savings plans and savings deposits with saving-lending institutions, people's savings plans, time deposits, interest-bearing notes and savings certificates, earmarked public funds, net latent reserves and subordinated debt.

The part of signature commitments shall be 50% for financing commitments in favour of customers, 5% for guarantee commitments given on behalf of customers and 20% of financing commitments in favour of other credit institutions.

The part of sight deposits shall be equal to 70% of the following: demand deposits, available factoring accounts and regulated savings accounts other than people's savings plans and accounts, "A" passbook savings accounts, housing savings plans and savings deposits with saving-lending institutions.

A score of 1 shall be assigned to institutions for which the average maturity transformation indicator established on the basis of data for the last three instalments is less than or equal to 100%.

A score of 2 shall be assigned to institutions for which the average maturity transformation indicator established on the basis of data for the last three instalments is greater than 100% but no more than 200%.

A score of 3 shall be assigned to other institutions for which such score is calculated.

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3. Institutions affiliated to a central body

For institutions affiliated to a central body, an overall contribution for the network shall first be calculated. For the purposes of calculating this contribution, all affiliated institutions are regarded as a single institution to which the provisions of points 1 and 2 of the present Annex are applied, with the following amendments:

- the deposit base is the sum of the affiliated institutions' deposit bases;
- the gross risk indicator is the sum of the affiliated institutions' gross indicators;
- the synthetic risk indicator is the arithmetic mean of the network's overall scores calculated for each of the items set forth at point 2 of the present Annex;

the network's overall score shall be calculated, for each item included in the calculation of the scores described in point 2 of the present Annex, by regarding all the members of the network as defined in Articles L. 511-30 and L. 511-31 of the Monetary and Financial Code (*Code monétaire et financier*) as a single entity, by summing up their individual data, where necessary after adjustment to make them homogenous and eliminating reciprocal transactions. Nevertheless, up till the closing of accounts on 31 December 2004, the overall score may be established by summing up and eliminating the reciprocal items without carrying out the necessary adjustments to make them homogeneous;

for the score relating to risk diversification, the ten largest exposures non eligible for the refinancing of the European system of central banks of the network shall not include commitments on non-affiliated subsidiaries consolidated under the terms of Regulation 93-05 aforesaid; the central body shall ensure that the Commission bancaire is informed of all of the ten largest exposures determined as such and common to all the institutions affiliated to the network;

the numerator derived from calculating the network's overall solvency score is used to calculate the maturity transformation indicator;

when institutions affiliated to a central body collect reimbursable funds entirely or partially on behalf of the central body, the deposit base is increased by advances received from such central body in respect of deposits collected on its behalf. The central body's deposit base is similarly reduced by the total amount of such advances.

to determine the network's synthetic indicator of overall risk, the scores relating to solvency and risk diversification shall be calculated on a consolidated basis according to the method set forth in points 2.2.1 and 2.2.2 of the present Annex, the consolidating body being the single body defined in the fourth indent. The central body shall inform the *Commission Bancaire* of this choice, which shall then be applied, without distinction, to the two scores mentioned above, at the latest by the closing of the accounts serving as a basis for calculating the next instalment

The network's overall contribution is then apportioned between the affiliated institutions in proportion to their contribution to the network's overall exposure,

defined as the quotient of its net risk amount and the sum of the net risk amounts of all affiliated institutions.

4. Notification of calculations

The *Commission Bancaire* shall make all the calculations provided for in the present Regulation on the basis of data established as at 31 December. It shall notify member institutions of the amount of their contributions due as from 16 October, together with the elements used to make the calculations described in points 1 and 2, by ordinary mail at the latest by 15 October of each year. It shall notify member institutions of the amount of their contributions due as from 26 May and 26 November, together with the elements used to make the calculations described in points 1 and 2, by ordinary mail respectively at the latest by 26 May and 26 November of each year

Any credit institution may ask the *Commission Bancaire* to rectify the calculation of its contribution within two months following receipt of notification. The *Commission Bancaire* may also rectify its calculation during the five years following payment of the contribution in the light of information brought to its knowledge subsequent to the date on which the calculations were sent, after seeking the institution's comments. As long as the *Commission Bancaire* does not rectify the calculation, the fund shall use it to collect outstanding contributions.

The *Commission Bancaire* shall rectify the calculation if there seem to be grounds for changing an institution's contribution by more than 10% of the sums it has paid. The fund shall make such rectification on notification from the *Commission Bancaire*.

If a rectification entails a change of more than 1.5% of the total amount of the half-yearly contribution or if the algebraic sum of all changes exceeds this amount in the contribution of the institution making the request, the *Commission Bancaire* shall recalculate all outstanding contributions and charge the differences to the next instalment.

If a member institution has made a mistake in declaring its assessment base or elements used to determine its synthetic risk indicator, the rectified contribution shall be increased by 10% of the amount of the variation in the contribution. If the mistake alone has entailed a general recalculation, the supplement shall be 20%.

The *Commission Bancaire* shall inform the guarantee fund of the amount of each member's contribution by ordinary mail before 1 November of each year. The fund shall issue payment notices to members before 15 November of each year.

5. Transitional provisions

For the first calculation relating to the certificates of association subscribed in 1999 and to the contribution for that year, the score described in point 2.2.2 of the present Annex shall not be calculated. It shall not be calculated for the half-yearly instalment based on data established as at 31 December 1999, nor for the half-yearly instalment based on data established as at 30 June 2000.

As from the calculation of the first half-yearly instalment of 2001, the score described in point 2.2.2 of the present Annex shall be incorporated into the synthetic risk indicator for each member. The amount of their certificates of association set forth in point 1 of the Annex of the present Regulation shall be recalculated at this due date taking into account the net share of risk determined for this instalment. For each member, the difference between the amount thus calculated and the amount of the certificates of association released on its behalf shall, if it is negative, be reimbursed by the guarantee fund, or if it is positive, be paid by the member together with its contribution for the first half-yearly instalment of 2001 and under the same terms and conditions. The

remuneration of a member's certificate of association shall be calculated as from 30 June 2001 based on the new amount of said certificate.

For each member, the total amount of contributions called up starting from the first instalment of contributions which said member pays shall be recalculated on the basis of the net share of risk set for the first half-yearly instalment of 2001. The difference between the amount thus calculated and the amounts actually paid or lodged as collateral under the terms of Article 6 of the present Regulation, by the member concerned, shall, if it is negative be deducted from the sum due from this member for the first half-yearly instalment of 2001, or if it is positive, added to this sum and settled under the terms and conditions governing the rest of the contribution. The maximum rates set forth at Articles 2 and 6 of this Regulation shall be, for the amounts called up from September 1999 to June 2001, those applicable to the contributions called up in the first half-year of 2001.

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Page créée le June 20th, 2006 et modifiée le June 23rd, 2006

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