

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

OUTDATED

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 13 January 2011

To institutions which are member of the AGDL (banks, investment firms, Luxembourg branches of banks and investment firms which have their registered office in a third country, management companies)

CIRCULAR CSSF 11/500

Re: Statistics on guaranteed deposits and instruments to be provided to the CSSF by the members of the *Association pour la Garantie des Dépôts, Luxembourg* (Deposit guarantee association, Luxembourg); information to be provided by investment firms (acting on behalf of third parties) to their depositaries of funds or financial instruments

Ladies and Gentlemen,

1. Pursuant to Article 10 of the statutes of the *Association pour la Garantie des Dépôts, Luxembourg* (“AGDL”), as amended, the CSSF accepted the mandate to calculate every year, as at 31 December, the total amount of the guaranteed cash deposits and the total amount of the guaranteed instruments as well as the respective percentages accruing to each member in these totals based on the specific data transmitted by each AGDL member.

In order to enable the CSSF to perform these calculations, member institutions are required to transmit the necessary data on **guaranteed cash deposits** and **instruments** as at 31 December 2010, in compliance with the definition included in the AGDL statutes, the annex to the AGDL statutes relating to the application of Title III of the statutes and the AGDL Internal Rules.

The figures reported shall be exact as the transmitted figures will be used to determine, following the failure of a member, the share of contribution of each member in case the AGDL is required to intervene.

Institutions under Luxembourg law shall include guaranteed **deposits** and **instruments** held, administered or managed by their branches established in other EU Member States in their data.

2. The CSSF also draws your attention to the provisions of Articles 62-2(6) and 62-12(6) of the law of 5 April 1993 on the financial sector. Where the depositor or investor is not absolutely entitled to the sums held in an account or sums or securities held, the person who is absolutely entitled shall be covered by the guarantee or receive the compensation, provided that that person has been identified or is identifiable before the date on which the CSSF has determined the unavailability as set forth in the law or before the date on which the Luxembourg *Tribunal d'Arrondissement* [District Court], sitting in commercial matters, has ordered the suspension of payments and the controlled management or the liquidation of the credit institution or investment firm. These provisions shall apply in particular where the depositor or investor is a financial institution.

3. The CSSF would also like to remind you that the amendment to the AGDL statutes as decided by the Extraordinary General Meeting of 18 February 2009 introduced a separation between the deposit guarantee scheme and the investor compensation scheme. Investment firms are now exempted from contributing for compensations to be paid out in the context of the deposit guarantee scheme. Consequently, investment firms are no longer required to fill in the table which refers to the deposit-guarantee scheme and which is only applicable to credit institutions (including the *Entreprise des Postes et Télécommunications*) and Luxembourg branches of credit institutions having their registered office in a third country.

However, investment firms shall continue to contribute to the investor compensation scheme (Article 9(2)(b) of the AGDL statutes). As previously indicated, the declaration to the CSSF determines the share of contribution of each AGDL member when repaying a claim. Thus, where the investment firm informs the professional of the financial sector with whom guaranteed financial instruments have been deposited that it is acting on behalf of third parties and notifies the number of the persons absolutely entitled and the share due to each person absolutely entitled in the account, this investment firm is still required to report to the CSSF all the financial instruments under its management on behalf of its customers and that might be eligible for compensation, as well as the funds it has received in connection with investment business in one of the tables (simplified table or detailed table) relating to the investor compensation scheme.

4. The tables are available electronically on our website at: <http://www.cssf.lu/fileadmin/files/ESPREP-Xxxxx-yyyy-mm-SGD.xls> (French only - a translation is provided hereafter for information purposes only). The name of the file must comply with the file naming convention for special enquiries as defined in Circular CSSF 08/344, using the following file name for the survey under review: ESPREP-Xxxxx-2010-12-SGD.xls

- the letter “X” shall be replaced by “B” for credit institutions, “P” for investment firms (including the *Entreprise des Postes et Télécommunications*) and “S” for management companies.
- “xxxx” corresponds to the identification number of the institution with the CSSF
example: ESPREP-B0999-2010-12-SGD.xls

Once the file has been completed by the AGDL member, it must be transmitted *via* one of the secured channels (E-File or SOFiE).

The relevant file must be in “.xls” format. Any other format (for example “.doc”, “.pdf”, etc.) will not be accepted. The files shall be completed in any cases. If you consider that there is no amount to be reported, the transmission to the CSSF remains nevertheless mandatory and value “0” (= zero) must be indicated in the corresponding tables. Finally, the tables are pre-formatted and cannot be changed by the institutions. The routine verifications and plausibility checks included in the tables indicate possible mistakes which the institution shall, where applicable, correct before transmitting the files *via* the above-mentioned transmission channels. The information which includes error messages will be considered as void.

Two tables are available for investor compensation purposes - a simplified table and a detailed table. In accordance with Article 9(3)(b) of the AGDL statutes, a member may notify sums greater than those which it shall be required to declare under the terms of the statutes. In such case, it may fill in only the simplified table.

The required statistics shall be reported to the CSSF by **31 March 2011** at the latest.

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

Claude SIMON
Director

Simone DELCOURT
Director

Jean GUILL
Director General

INFORMATION ONLY

STATISTICS ON GUARANTEED DEPOSITS AND INSTRUMENTS

Situation as at:

31 December 2010

Name of the credit institution or investment firm:	
Identification number (1):	
Contact person:	
Tel.:	

(1) please insert a B for banks, P for investment firms (including the *Entreprise des Postes et Télécommunications*) and S for management companies before the identification number

INFORMATION ONLY

A. Deposit guarantee (only applicable to credit institutions (including the *Entreprise des Postes et Télécommunications*) and to Luxembourg branches of credit institutions having their registered office in a third country)

By size	Volume of deposits (1) (in mn EUR) (2)	Number of rights (1)	Guaranteed deposits (in mn EUR) (1) (2)
≤100,000 EUR	0.0	0	0.0
> 100,000 EUR	0.0	0	0.0
T O T A L	0.0	0	0.0

(1) Please refer to the AGDL statutes as amended, the annex to the AGDL statutes relating to the application of Title III of the statutes and the AGDL Internal Rules.

(2) All figures shall be indicated in mn EUR with one decimal place.

Circular CSSF 11/500

INFORMATION ONLY

B. Investor compensation

1. Simplified calculation

	Volume of instruments (1) (in mn EUR) (2)	Number of rights (1)	Guaranteed instruments (in mn EUR) (20.000 EUR x Number of rights)
TOTAL	0.0	0	0.0

(1) Please refer to the AGDL statutes as amended, the annex to the AGDL statutes relating to the application of Title III of the statutes and the AGDL Internal Rules; **funds relating to investment business shall also be included in the volume of instruments.**

(2) All figures shall be indicated in mn EUR with one decimal place.

INFORMATION ONLY

B. Investor compensation

2. Detailed calculation

By size	Volume of instruments (1) (in mn EUR) (2)	Number of rights (1)	Guaranteed instruments (1) (in mn EUR) (2)
≤20,000 EUR	0.0	0	0.0
> 20,000 EUR	0.0	0	0.0
TOTAL	0.0	0	0.0

(1) Please refer to the AGDL statutes as amended, the annex to the AGDL statutes relating to the application of Title III of the statutes and the AGDL Internal Rules; **funds relating to investment business shall also be included in the volume of instruments.**

(2) All figures shall be indicated in mn EUR with one decimal place.