

**COMMISSION de SURVEILLANCE
du SECTEUR FINANCIER**

OUTDATED

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

Luxembourg, 11 January 2012

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 12/530

Re: Annual survey by the CSSF of deposits and claims (instruments and monies) guaranteed by the *Association pour la Garantie des Dépôts, Luxembourg* (Luxembourg deposit guarantee scheme; AGDL)

Ladies and Gentlemen,

1. Pursuant to Article 10 of the statutes of the *Association pour la Garantie des Dépôts, Luxembourg* (“AGDL”), as amended at the Extraordinary General Meeting of 17 December 2010, the CSSF accepted the mandate to calculate every year, as at 31 December, the total amount of cash deposits guaranteed under the deposit guarantee scheme and the total amount of claims (instruments and monies) guaranteed under the investor compensation scheme as well as the respective percentages accruing to each AGDL 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 claims (**instruments and monies**) as at 31 December 2011, in compliance with the definition included in the law on the financial sector (LFS), 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 claims (instruments and monies) in 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 LFS. Where the depositor or investor is not absolutely entitled to the sums held in an account or to the 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 triggering the intervention of the AGDL. These provisions shall apply in particular where the depositor or investor is a financial institution.

3. Furthermore, the CSSF would 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.

This separation has the following consequences for the data to be transmitted by investment firms:

a. Since the investment firms are not covered by the **deposit guarantee scheme**, they are exempt from contributing in case of intervention by the AGDL under the deposit guarantee scheme. Hence, **the investment firms are not required to fill in the table which refers to the deposit guarantee scheme**. This table only applies 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, in order to ensure that the investment firms' clients receive compensation in case of failure of the depositary bank, the investment firms shall **report to their depositary bank** the cash deposits held on non-individual global accounts on behalf of their clients, as well as communicate to it the number of persons absolutely entitled who have a right to repayment of debt and the share accruing to each person absolutely entitled in the above-mentioned accounts pursuant to the above-mentioned Article 62-2(6) of the LFS, the Article 8(9)(a) of the AGDL statutes and the AGDL Internal Rules.

b. Since the investment firms are covered by the **investor compensation scheme**, they remain contributors to this system (Article 9(2)(b) of the AGDL statutes). **Hence, they shall fill in one of the tables (simplified or detailed table) which refer to the investors compensation scheme** by reporting all the financial instruments they manage on behalf of their clients and likely to be subject to compensation as well as the received monies related to investment transactions, including the financial instruments and monies they deposited with the depositary bank.

Moreover, in order to minimise the risk that the investment firm's clients are not compensated in case of failure of the depositary bank with which the investment firm deposited its clients' instruments and monies, the investment firm shall **declare to this depositary bank** that it acts on behalf of its clients and communicate to it the number of persons absolutely entitled and the share accruing to each person absolutely entitled under the investor compensation scheme pursuant to Article 62-12(6) of the above-mentioned LFS, the AGDL statutes and the AGDL Internal Rules.

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-2011-12-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, for example: ESPREP-B0999-2011-12-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" or ".xlsx" 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 2012** at the latest.

Yours faithfully,

COMMISSION de SURVEILLANCE du SECTEUR FINANCIER

Claude SIMON
Director

Andrée BILLON
Director

Simone DELCOURT
Director

Jean GUILL
Director General

ANNEXES

INFORMATION ONLY

STATISTICS ON GUARANTEED DEPOSITS AND INSTRUMENTS

Situation as at:

31 December 2011

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

(1) please insert 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

(This part only applies 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 (1) (in mn EUR) (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 at the EGM of 17.12.2010, 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.

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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 at the EGM of 17.12.2010, the annex to the AGDL statutes relating to the application of Title III of the statutes and the AGDL Internal Rules; **monies 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.

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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 at the EGM of 17.12.2010, the annex to the AGDL statutes relating to the application of Title III of the statutes and the AGDL Internal Rules; **monies 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.

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