

**COMMISSION de SURVEILLANCE  
du SECTEUR FINANCIER**

OUTDATED

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

Luxembourg, 27 February 2009

To credit institutions, investment firms, branches of credit institutions and investment firms which have their registered office in a third country and to management companies

**CIRCULAR CSSF 09/393**

**Re: Statistics on guaranteed deposits and instruments to be provided to the Commission by the affiliates to the *Association pour la Garantie des Dépôts, Luxembourg* (Luxembourg deposit guarantee scheme); information to be provided by investment firms (acting on behalf of third parties) to credit institutions or investment firms acting as their depositaries of assets or financial instruments**

Ladies and Gentlemen,

1. Based on Article 10 of the articles of incorporation of 29 April 2003 as amended by the Extraordinary General Meeting of the "*Association pour la Garantie des Dépôts, Luxembourg*" ("AGDL") of 18 February 2009, the *Commission de Surveillance du Secteur Financier* ("CSSF") accepted the mandate to calculate every year, as at 31 December, the total amount of the guaranteed 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 to the AGDL by each member.

In order to carry out the calculations, please transmit the relevant data on **guaranteed deposits** and **instruments** of your institution as at 31 December 2008 as defined in the "AGDL" articles of incorporation of 29 April 2003 as amended by the Extraordinary General Meeting of 18 February 2009, and in the annexe to the articles of incorporation of the AGDL regarding the application of title III of the articles of incorporation.

The exact figures shall be reported as the transmitted figures will be used as basis for the drawing-up, if appropriate, of the share of each member in case the AGDL is required to intervene.

We particularly draw your attention to the new maximum threshold for the compensation of the depositor: as from 1 January 2009 the threshold rose from 20,000 EUR to 100,000 EUR per depositor (Article 62-2(2) of the law of 5 April 1993 on the financial sector, as amended by Article 44 of the law of 19 December 2008 on the State revenue and expenditure budget for the financial year 2009).

However, the maximum threshold for the compensation of the investor remains unchanged at 20,000 EUR per investor (Article 62-12(2) of the law of 5 April 1993 on the financial sector, as amended).

It should be noted that Luxembourg institutions include guaranteed **deposits** and **instruments** placed with their branches established in other EU countries in their data.

2. The CSSF would also like to point out Articles 62-2(6) and 62-12(6) of the law of 5 April 1993 on the financial sector, as amended, to all professionals of the financial sector which deposit cash or guaranteed instruments of which they are not the beneficiaries with credit institutions, respectively investment firms or branches of these institutions or firms. The beneficiary shall be covered by the guarantee provided that it has been identified or is identifiable before the date on which the CSSF makes the determination described in the law or on which the district court [*tribunal d'arrondissement*] sitting as a commercial court orders the suspension of payments and the controlled management or liquidation of the credit institution or investment firm, if this order is given first.

3. With reference to the articles of incorporation of the AGDL, as amended at the Extraordinary General Meeting of 18 February 2009, a split of the deposit-guarantee scheme and the protection scheme was carried out, so that in case the deposit-guarantee scheme is triggered, the investment firms are now exempted from a contribution. Consequently, investment firms are not required to fill in the table which refers to the deposit-guarantee scheme and which is only applicable to credit institutions and branches of credit institutions having their head office in a third country.

Investment firms remain, however, contributors to the protection scheme (Article 9(2b) of the articles of incorporation of the AGDL, as amended at the Extraordinary General Meeting of 18 February 2009). As mentioned above, the report to the CSSF determines the share of each member of the AGDL for the financing of a claim. Thus, even when the investment firm informs the professional of the financial sector with which it deposits guaranteed instruments, that it is acting on behalf of third parties and notifies the number of the beneficiaries and the share accruing to each beneficiary in the account, this investment firm is still required to report to the CSSF all the deposits of guaranteed instruments and funds related to investment transactions in one of the tables (simplified table or detailed table) concerning the protection scheme.

4. The tables are available in an electronic form on our website at <http://www.cssf.lu/fileadmin/files/ESPREP-Xxxxx-yyyy-mm-SGD.xls>. They shall be sent *via* the transmission channels E-file or SOFiE. 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 names for the survey under review: ESPREP-Xxxxx-yyyy-mm-SGD.xls

- the letter "X" shall be replaced by "B" for credit institutions, "P" for professionals of the financial sector and "S" for management companies.
- "xxxx" corresponds to the identification number of your institution in the CSSF

example: ESPREP-B0999-2008-12-SGD.xls

The relevant file shall be in ".xls" format. Any other format (for example ".doc", ".pdf", ...) will not be accepted. The files shall be completed in any cases. If the credit institution considers that there is no amount to be reported, the transmission to the CSSF remains nevertheless mandatory and value "0" (= zero) shall 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, if appropriate, correct before transmitting the files *via* the above-mentioned transmission channels. The information which includes error messages will be considered as void.

As regards the protection scheme, a more detailed table is now available in addition to the simplified version. The detailed table may be filled in on a voluntary basis and the members may fill in the simplified version only.

The required statistics shall be reported to the CSSF for **30 April 2009** at the latest.

For further information in relation to this circular, please contact Mr Edouard Reimen (sge.edouard.reimen@cssf.lu).

Yours faithfully,

COMMISSION DE SURVEILLANCE DU SECTEUR FINANCIER

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