The functions and organisation of deposit guarantee schemes: the French experience

International deliberations on financial stability…

The recent spate of national and international financial crises and bank restructurings, together with the propagation and amplification across continents of economic cycles, has highlighted the increasingly globalised nature of financial systems and illustrates why it is necessary to consider the question of financial stability from a global standpoint. It was to meet this need that the Financial Stability Forum was set up in February 1999. The Forum consists of representatives of the finance ministers, banking supervisors, market regulation authorities, the main international economic and financial institutions and the various international forums promoting cooperation in the area of banking, market and insurance supervision within the G 7. Its purpose is to examine the factors contributing to vulnerability at the heart of modern economies and to prevent them from spreading.

The question of insuring deposits has been discussed in this forum, thus continuing, at G 7 level, the debate that accompanied the adoption of the 1994 European Directive on the subject.

…have taken account of discussions on deposit protection schemes.

It was felt that in a modern non-managed economy the winding-up of loss-making financial institutions was a normal occurrence and that the existence of clear, effective and speedy mechanisms for depositor compensation helped to preserve financial stability. A deposit guarantee scheme is thus an essential part of the "safety net" thrown around financial institutions, which also includes the authorisation arrangements needed to ensure that an institution meets all the conditions it is required to fulfil before starting business; the supervisory regulations designed to ensure that it observes the rules of sound management; and the insurance and liquidation arrangements which ensure that depositors do not suffer excessive loss if an institution has to close.

Deposit guarantee schemes play an important role in preserving the stability of the financial system as a whole: if depositors have an accurate and clear understanding of the protection offered, then panic behaviour can be avoided.

However, for this approach – which originated relatively recently – to be effective, two conditions must be met:

– the authorities and the financial sector generally must accept that the possibility of a credit institution failing is normal;

– the public must be aware of the existence of a deposit guarantee scheme and must have confidence in its ability to provide adequate and speedy compensation.

The latter point underlines the importance of keeping the public informed.

In this paper, after discussing the general issues relating to deposit guarantee schemes (Section 1), we shall describe the basic principles underlying the French system, which was introduced under the Act of 25 June 1999 (Section 2) and its particular characteristics (Section 3).

1. THE GENERAL PRINCIPLES OF DEPOSIT GUARANTEE

Deposit guarantee schemes have a recognised relationship with prudential standards.

Economic theory, especially in the English-speaking world, has dealt in depth with the concept of deposit insurance and its relationship with prudential standards. Although the literature tends to conclude that their respective roles overlap, the experience of the last few years, especially in the United States, has highlighted the importance of deposit guarantee schemes in preventing bank runs and hence their contribution to financial stability. However, if they are to be effective in providing protection, security and stability, there are certain pitfalls that must be avoided. In order to be accepted, they also need to suit the local economic, legal, accounting and prudential environment. This is why there is such a variety of schemes in existence around the world today.

As economies and financial markets open up, it is time to consider this issue in the international context.

1.1. The aims of a deposit guarantee scheme

The main aims of these schemes are depositor protection…

The primary object of any deposit guarantee scheme is, of course, to provide protection and thus allow depositors to be quickly repaid should a financial institution default. But the macroeconomic implications and possible side-effects of such schemes are considerable.

…and financial stability.

Indeed, one of the avowed goals of deposit guarantee is the promotion of financial stability. The first schemes were introduced in the 1930s to alleviate the situation created by the financial crises that arose during that period, when banks were faced with massive demand for deposit withdrawals (so-called “bank runs”) which they were unable to meet. A scheme which maintains the (at least partial) availability of deposits is an important factor in financial stability.

Although in theory there is no need to have both an optimal capital cushioning system and a deposit guarantee scheme, the errors in measurement caused by informational asymmetry show that a dual system is more effective than exclusive reliance on a single mechanism. After all, a bank that is subject to capital ratios can still default and the reserves held by a deposit guarantee fund can prove to be insufficient, especially if the risks have been underestimated.

Deposit guarantees and prudential standards have proved to be complementary.

It is therefore now accepted that these two types of arrangement are complementary and that deposit insurance schemes, in particular, play a fundamental role in the prevention of bank runs. The economic argument to the effect that the very existence of a deposit guarantee scheme results in depositors being less vigilant vis-à-vis financial institutions does not seem valid, especially in the G 7 countries, where the extensive fragmentation of deposits tends to mean that

deposit-holders play the role of free rider. This is due to the fact that individual deposits are relatively small and depositors do not therefore have effective control over lending institutions.

But economic theory points to risks inherent in deposit insurance mechanisms.

Such schemes, however, can only perform their "macro-financial stabilising" role if they are effective and credible. In this respect, economic theory refers to the adverse-selection risk that putatively arises from inadequate or ineffective charging for risk. This could mean either that only high-risk institutions join such schemes or that institutions are tempted to incur more risks if, for example, the contribution to the deposit guarantee fund does not differentiate between institutions' risks.

Therefore, the appropriate response to the problems identified by economic theory would seem to be to introduce a system of compulsory insurance (to avoid adverse selection), which is capped (to encourage depositors to continue to exercise a degree of watchfulness over the credit institutions). This insurance system would be set up prior to the emergence of any crisis (ex ante fund) and would have sufficient resources (to strengthen public confidence), raised by applying differentiated premiums (to avoid distortion of competition or moral hazard).

However, the effectiveness of a deposit insurance scheme depends equally (or more so) on how far it suits the local economic, legal, legislative, financial, accounting and prudential environment.

A scheme's effectiveness depends chiefly on the extent to which it is geared to the local economic environment.

For this reason it would appear that a scheme ought to be specific to its own country and designed to meet clearly identified public objectives that are geared to local conditions. There are, though, a number of conditions which may be necessary if a scheme is to be effective and credible. For example, the legal system must be of proven excellence, the macroeconomic context must be stable (it is, for example, extremely difficult to run a deposit guarantee scheme in an environment prone to bank failure), the accounting rules must be clearly defined and regularly reviewed, effective risk controls must be in place and so on.

The fact that there are so many different kinds of deposit insurance scheme in existence today is accounted for by the differences in local conditions.

1.2. The main types of deposit insurance scheme

Deposit guarantee schemes may differ widely…

The various deposit guarantee schemes in operation today differ chiefly in the extent of their powers. These range from simple reimbursement ("pay-box systems") to risk reduction ("risk-minimisers") and can even include effective powers of banking supervision vested in the deposit guarantee fund. Beyond this essential difference, there are other defining characteristics, such as the fund's status (public or private sector), method of funding (ex post or ex ante), contributions (uniform or graded according to risk), types of cover etc.

…but they share the same principles.

Nonetheless, there is a fair degree of convergence on a number of minimum requirements to ensure that the system is effective. Its existence must be made public and be generally known. Membership must be compulsory for institutions. The extent of its powers and the rules governing cooperation with the other bodies forming part of the "safety net", in particular banking supervisors, must be clearly defined; and it must have access to adequate sources of finance. It is accepted that deposit guarantee schemes are neither meant nor able to deal with systemic

banking crises, which fall within the remit of other parts of the "safety net", e.g. supervisors, central bank, government.

The extent of deposit cover varies…

While the current schemes share the above features, they differ in other respects. In particular, the degree of cover varies. In Europe the 1994 Directive stipulates minimum cover of EUR 20,000, but the different countries of the zone have mostly opted to continue with the protection offered under their former scheme (when there was one). In some extreme cases a scheme may temporarily, e.g. in the event of a systemic crisis as in Mexico in 1994, offer total cover in order to restore public confidence.

…as does the system's method of funding.

The method of funding may likewise differ: resources may be raised before (ex ante) or after (ex post) a crisis develops. With an ex post scheme, a call on funds is made to cover the cost of an identified loss, whereas an ex-ante system relies more on an "insurance"-type technique. Both systems have their advantages and drawbacks.

An ex-ante scheme usually allows depositors to be repaid sooner, since the fund already has the resources at its disposal. It is therefore more likely to win the confidence of the public. It does, however, siphon off liquidity from the banking system at the time such a scheme is set up, and this raises the question of the fund's investment policy, especially in high-inflation countries. There also need for governing the size of the fund. Nevertheless, it appears that in the G 7 countries the trend is towards ex ante funds, sometimes with a possibility of raising additional resources, if needed, via bond issues, guaranteed loans, etc.

Choosing the type of contribution to be paid by credit institutions raises a particular issue: should the premiums be uniform or graded according to the risk exposure that each institution represents for the financial community?

The risk engendered by each scheme member can be taken into account via the premiums they are charged.

Although economic theory shows a clear preference for graded premiums, which it regards as fairer and more likely to reduce moral hazard, such a system is complicated to put into practice when it comes to choosing the indicators on which grading would be based (e.g. should the criteria be exclusively quantitative or quantitative and qualitative?). There are also other issues: access to the information needed to produce such indicators, whether such information is reliable, how acceptable such a system would be to the financial institutions and, above all, the potentially destabilising consequences of charging institutions which may already be in difficulties.

Uniform premiums are simpler, but less "fair" from the economic point of view. Although in recent times the move has been towards graded premiums, there are as yet only a few examples of deposit guarantee schemes actually operating along these lines.

The chief distinguishing feature is the scope of the powers given to the fund.

However, the chief distinguishing feature remains the scope of the powers given to the fund. At either extreme, there is the type of scheme that simply repays deposits and the one which seeks to reduce the risks. An obvious example of the latter type is the Federal Deposit Insurance Corporation (FDIC) in the United States, which, in addition to repaying deposits, clearly exercises a banking supervisory function. This includes checking up on access to the deposit guarantee scheme and an obligation to evaluate the risks incurred, possibly through on-site inspections. Such schemes may also provide cash support if a bank gets in difficulties which are felt to be temporary.

Nowadays, however, the powers vested in the various deposit guarantee schemes fall somewhere between these two extremes.

1.3. International developments in the area of deposit insurance

The Financial Stability Forum has formed a working group to address the issue.

As a consequence of the increasing links between various financial systems and the globalisation of the main financial agents, the main issues relating to financial solvency have been discussed in international forums representing the main parties involved. Thus, February 1999 saw the setting-up of the Financial Stability Forum, one of whose working groups has been given the task of studying deposit insurance methods. Work on this subject had already been carried out under the auspices of the World Bank.

The working group's remit is to identify "good practice" in this area.

The purpose of the Forum's ad hoc working group is to identify examples of "good practice" in the area of deposit insurance. It is not expected to issue recommendations, since it has been acknowledged that the effectiveness of a deposit guarantee scheme depends first of all on its suitability to the local macroeconomic and political environment.

In this context, discussions will focus on cross-border issues, which are arising with increasing frequency but are very difficult to deal with.

2. THE BASIC PRINCIPLES UNDERLYING DEPOSIT PROTECTION IN FRANCE

2.1. The legal principle of depositor protection

Although it enshrines the principle of depositor protection, France's Banking Act did not provide explicitly for a guarantee system.

The principle of depositor protection was laid down in the initial version of Act No 84-46 of 24 January 1984 (Banking Act), which now forms part of the Financial and Monetary Code. The issue of depositor protection is dealt with in Title IV of that Act. In practice, protection was provided under the prudential provisions that are binding on credit institutions (Article 51, which has now become Article L 511-41 of the Financial and Monetary Code) and via the "crisis" mechanisms provided for under Article 52, now Article L 5211-42 of the Financial and Monetary Code. These mechanisms were embodied in the call on credit institutions' shareholders and the concept of "*solidarité de la Place*", or the shared responsibility of the financial centre. There was no explicit system of depositor protection enshrined in the Act.

But that role was fulfilled through shared liability among banks affiliated to a central organisation...

Such a function was, however, provided by two mechanisms, one statutory and the other contractual. The former still works and is derived from enforcement of Article 21 of the Banking Act (now Article L. 511-31 of the Financial and Monetary Code), which concerns the liability shared by the members of networks

headed by a central organisation and which requires the latter to make arrangements for providing liquidity and solvency support to members in difficulty via a call for funds on the other members.

...and the mechanism put in place by the French Bankers Association.

By contrast, the other mechanism, introduced in 1975, was contractual in nature and exclusive to banks belonging to the French Bankers Association (*Association Française des Banques* – AFB). In the event of default by a member institution, it provided for the French franc deposits of private individuals and corporate bodies to be repaid up to an amount of FRF 400,000 per depositor. However, the AFB reserved to right not to activate this mechanism, which was exclusive to its own members, since judicial decisions had established that depositors could not take advantage of it. The amount of available assistance was also limited to FRF 200 million a year, which was insufficient to deal with sizeable losses. Nonetheless, the system was in operation from 1976 to 1995 and was used in around fifteen different incidents to compensate depositors, involving a total pay-out of over FRF 600 million.

In the late 1980s, however, when increasing deregulation and competition led to an unprecedented accumulation of new risks, it was felt necessary to undertake a study of the arrangements for safeguarding banking stability, not only in France but also at the European level. Work began on issues such as the winding-up of credit institutions and, above all, the harmonisation of deposit guarantee schemes.

2.2. The European Union offers a harmonised legal framework for deposit guarantee schemes

The need to harmonise deposit guarantee schemes resulted in the 1994 Directive.

As early as the mid-1980s the authorities stated that it was their objective to harmonise deposit guarantee systems. With the approach of the single market (actually introduced in 1993), the sharp differences that existed between different countries' schemes were bound to create obstacles in setting up and providing cross-border services and lead to competitive distortion within Europe.

However, the first draft Directive was not submitted until 1992. Problems immediately arose on account of the significant differences that existed between Member States, especially regarding the amounts guaranteed. These differences were finally overcome in the last (1993) draft, which was explicitly based on common minimum standards and was adopted as Directive 94/19/ EC of 30 May 1994 on deposit guarantee schemes.

2.2.1. All bank deposits in Member States must be covered

The principle of mandatory membership of a deposit guarantee scheme was established.

With this fundamental aim in view, the Directive was applied to all deposit-taking credit institutions in the European Union, which were accordingly required to be a member of a deposit guarantee scheme. Some exceptions are allowed, however.

The first and most important exception relates to institutions linked by "solidarity", i.e. mutual or cooperative organisations or savings banks, which are particularly common in Germany and France. The Directive recognised that these systems provided effective protection, which could therefore be treated as equivalent to that provided by an explicit deposit guarantee scheme.

The other major exception relates to branches of third-country institutions located in the European Union which, on the responsibility of the Member States and subject to their supervision, may be exempted from joining the local scheme, provided that they offer equivalent protection to that available to institutions in the European Union.

2.2.2. Cover is provided by the home country

This is an extension of the general principle of home country regulation, which underlies the single market and features in all EU banking directives.

Thus, deposits received by a credit institution throughout the European Union must be covered by the scheme operating in the home country, irrespective of how the deposits are collected, i.e. by a branch or through the provision of services.

However, the Directive only offers a minimum common framework, which does not remove the differences between countries and can lead to competitive distortions. Foreign branches established in a host country where the guaranteed amount is very high would have been penalised vis-à-vis their depositors. It is for this reason that the Directive allows a branch to join the host country's scheme in a top-up capacity.

The underlying principle can lead to competitive distortion and has thus been amended to permit membership of a host country's scheme in a top-up capacity.

But a competitive distortion could also have arisen where the scheme in the home country offered a higher level of cover than the host country's scheme. Initially it was decided to prohibit the "export of more generous schemes" in order to prevent the potentially destabilising effects that might ensue if institutions tried to outbid each other in terms of the cover they offered. A branch was then not allowed to offer in the host country a higher level of cover than that offered by that country's own scheme. This restriction was lifted on 31 December 1999, since the different schemes were seen to be functioning effectively within the zone.

2.2.3. The Directive only lays down minimum features

In view of the differences between existing systems, the Directive relies on the principle of subsidiarity, leaving it to Member States to decide the actual terms and conditions under which their own scheme will operate. It simply stipulates a minimum standard of depositor protection, leaving scope for a given country to offer a higher level of protection.

The minimum amount guaranteed was set at EUR 20,000 per depositor for all his accounts combined. This is not an average figure, but was arrived at after an examination of the existing national schemes, some of which provide much higher levels of cover, especially those in Germany, Italy and France. The Directive allows the possibility of "coinsurance", whereby the scheme does not compensate depositors in full, but makes them bear part of the loss in the form of a "deductible", as an incentive to exercise some care in the choice of depository

The minimum amount guaranteed was set at EUR 20,000 per depositor.

institution. The Directive does lay down, however, that deposit guarantee schemes must pay at least 90% of the amount of the deposits in question.

The definition of "guaranteed deposits" is broad, but some categories of funds are excluded.

Guaranteed deposits consist of all credit balances on account and all claims represented by a debt instrument issued by the credit institution. However, certain items must be excluded, namely deposits of other credit institutions, any sums forming a credit institution's capital and funds resulting from money laundering. Other types of deposit may also be excluded, such as those held by other financial institutions, persons with links with the depository institution and negotiable debt securities or deposits denominated in non-Member State currencies.

The guarantee is activated if the deposits become unavailable, with a maximum period laid down for payment of the compensation.

The supervisory authorities are responsible for determining whether a deposit is unavailable.

An unavailable deposit is defined in the Directive as one which is "due and payable but has not been paid by a credit institution under the legal and contractual conditions applicable thereto". Responsibility for determining whether a deposit has become unavailable is left to the supervisory authorities, which will decide that this is the case as soon as they judge on the basis on their information that "in their view the credit institution concerned appears to be unable for the time being, for reasons which are directly related to its financial circumstances, to repay the deposit and to have no current prospect of being able to do so". The Directive does not cover instances of temporary liquidity difficulties, if the institution is likely to be able to pay its depositors within a short period of time. If a court orders a suspension of payments in the context of legal proceedings, the deposits are regarded as unavailable.

Compensation payment deadlines are strict.

The Directive lays down strict deadlines for the payment of compensation to depositors. These are essential if the scheme is to be effective and thus maintain confidence in the banking system. Deposit guarantee schemes must be able to pay depositors' claims within three months of the deposits having been declared unavailable. Exceptionally, the competent authorities may extend this period by a further three months.

In the event of winding-up proceedings, deposit guarantee schemes naturally enjoy a right of subrogation with respect to the rights of the depositors for an amount equal to their payment.

Depositors must be informed about the details of the protection scheme.

Finally, the Directive underlines the need to provide depositors with information so that they properly understand the risks involved in holding deposits, their rights and the compensation procedures. Credit institutions are therefore required to inform their clients about depositor protection, but are not allowed to exploit this requirement for advertising purposes.

2.2.4. The principle of depositor protection has been extended to cover holders of securities

The main provisions of the 1994 Directive were also included in Directive 97/9/EEC of 3 March 1997 on investor protection, which makes it a requirement within the European Union to belong to a compensation scheme for clients, in this case "investors", owning financial instruments held in the safe custody of authorised institutions. The minimum amount guaranteed is set at EUR 20,000 per investor.

The 1997 Directive also imposes a minimum guarantee for the assets of "investors".

2.3. The Act of 25 June 1999 creates a unified and consistent deposit guarantee system

Under an amendment to the 1994 Banking Act [1] and Regulation 95-01 of 21 July 1995 of the Banking Regulations Committee (CRB), the 1994 Directive on deposit guarantee schemes was incorporated into French law. The law introduced a minimum guaranteed amount of ECU 20,000 (around FRF 140,000) and gave official recognition to several deposit guarantee schemes or schemes regarded as equivalent which were run by professional banking associations or networks with a central organisation.

After basic transposition of the Directive…

It soon became clear that the arrangements needed a thorough review in order to being them into line with the Directive and for the sake of greater simplicity and effectiveness.

2.3.1. The Act of 25 June 1999

The Act of 25 June 1999 (Savings and Financial Security) contained some provisions that were of importance to the operation of the French banking system.

…the legal framework was overhauled to accommodate a fully-fledged deposit guarantee scheme.

The purpose of this legislation was to create a universal protection fund with contributions paid in advance, which therefore had sufficient resources in the event of bank defaults and which operated transparently and efficiently.

Although the goal of enhancing the stability of the banking system was clearly stated, the system introduced in France, as in most countries possessing formal deposit guarantee schemes, was not meant to deal with systemic crises, for which other measures are needed.

Under the Act the Banking and Financial Regulations Committee (CRBF) is responsible for defining the scheme's operating rules. These are contained in CRBF Regulations 99-05, 99-06, 99-07, 99-08 of 9 July 1999 and 2000-07 of 6 September 2000. The deposit guarantee fund's internal rules of procedure, which were approved by the CRBF, lay down how the fund will be internally managed.

[1] Act 94-679 of 8 August 1994 (Omnibus Finance Act) amending Section 52 of the Banking Act.

2.3.2. Protection extended to securities (investor protection) and guarantees (guarantee protection)

Apart from protection for client deposits, the Act also provides for two other compensation mechanisms, which are likewise administered by the deposit guarantee fund.

In addition to guaranteeing deposits, the scheme covers investors…

The first results from the incorporation into French law of the 1997 Directive on investor protection (see above) and aims to cover repayment of financial instruments held in safe custody on behalf of its clients by a provider of investment services, in the event the provider is unable to refund the securities in question. This scheme is designed for credit institutions providing investment services and companies authorised to perform this type of service.

Unlike the rules for deposit guarantee, where the simple fact of being authorised as a credit institution implies membership of the fund, only financial agents authorised by the Financial Markets Council (Conseil des marchés financiers – CMF) to hold securities on behalf of third parties are required to belong to the securities guarantee scheme. Membership is thus a requirement for the following:

– credit institutions approved in France which act as depositories of financial instruments entrusted to them by third parties (here, the securities guarantee arrangements may operate alongside the deposit guarantee scheme),

– investment firms authorised in France,

– intermediaries authorised by the CMF,

– members of clearing houses.

Since the 1996 Financial Activity Modernisation Act, amended in 1999, is not applicable in Monaco, securities held by credit institutions based in the Principality are not covered by the French securities guarantee arrangements.

…and beneficiaries of certain guarantees.

The second mechanism is specific to France. It covers credit institutions authorised in France to issue statutory or legal guarantees. The purpose is to compensate clients in the case of certain guarantees if the institution providing the guarantee fails.

Branches of credit institutions whose registered office is located in a State that is not party to the Agreement on the European Economic Area belong to the scheme if they are authorised in France to issue guarantees.

By contrast, branches of credit institutions whose registered office is located in a State other than France that is party to the Agreement on the European Economic Area and which are established in mainland France, Corsica or in the overseas territories do not in principle belong to the guarantee protection scheme. However, in implementation of Community law, especially the principle of non-discrimination, it is envisaged that such branches may have the option of joining the scheme if they are authorised to issue guarantees.

3. THE FEATURES OF THE FRENCH DEPOSIT GUARANTEE SCHEME

3.1. The scheme applies to all categories of institution

3.1.1. Membership is compulsory for all credit institutions

All credit institutions must belong to the deposit guarantee scheme.

In the spirit in which the Banking Act was drafted, all types of credit institution in France (commercial banks, mutual or cooperative banks, municipal credit banks, financial companies and specialised financial institutions) must belong to the deposit guarantee scheme. This fact illustrates the priority given to maintaining the stability of the banking system as a whole, an objective which is to be realised by making credit institutions responsible and jointly liable for each other as a condition of their status as credit institutions. The automatic link between authorisation and membership of the scheme (which ceases if authorisation is withdrawn) makes it easier to administer the membership arrangements, which can be much more complex in some countries. Since membership is compulsory, all credit institutions are required to pay contributions to the deposit guarantee fund, but those which carry no deposits on their books pay a minimum flat-rate contribution.

Application to foreign branches

The French deposit guarantee scheme also covers French branches of foreign banks. A distinction needs to be made here between branches of institutions whose registered office is located in another State that is party to the Agreement on the European Economic Area and branches from other foreign countries, so-called third countries. For institutions based in the European Economic Area, membership of the deposit guarantee scheme is compulsory only in the case of branches set up outside mainland France, Corsica the overseas territories. In other cases it is optional and must take account of the protection provided by the home country. For institutions whose registered office is located in a third country, membership is still compulsory.

There are specific rules for calculating members' fees. If it is agreed that the home country's schemes will compensate French clients on terms that are equivalent to those provided for under the French regulations, the institution may be exempted from payment of the fee. Moreover, where branches are exempt from compliance, on a territorial basis, with the French regulations because they are governed by regulations in their home country that are at least as strict, it is permissible, in accordance with the principle of recognition of home country supervision, to take account of the prudential situation of the institution as a whole. Similar rules apply all the more so to European institutions.

3.1.2. The scheme is run by the banks themselves

The guarantee fund runs the three protection mechanisms.

The three statutory schemes (protecting bank deposits, financial instruments and related deposits and bank guarantees) are managed by a single organisation, the deposit guarantee fund (*fonds de garantie des dépôts*), whose purpose is to compensate clients of a member institution that has defaulted in the event that their deposits, other repayable funds or financial instruments become unavailable or the member institution is unable to honour the guarantees it has given.

The Fund is a private-law corporation governed by special rules and vested with public-law powers. It is not a company or a not-for-profit association. Appeals against its decisions for involvement are heard by an administrative court, other appeals by other courts. It is required to send the Minister for the Economy, Finance and Industry a copy of the approved accounts for each financial year and it is subject to supervision by the General Finance Inspectorate (*Inspection Générale des Finances*).

The members of the Supervisory Board come from the banking industry.

The deposit guarantee fund has a Supervisory Board which has on-going responsibility for monitoring the way the fund is managed and a Managing Board responsible for its day-to-day running.

The Supervisory Board is made up of fourteen members, who all come from the banking industry:

- four ex officio members representing the four main contributors,
- two representatives of institutions with a central organisation, who are not ex officio members,
- six members representing the other categories of credit institution, who are not ex officio members, complemented by two members representing investment firms.

They are appointed or elected on the basis of the contributions made by the institutions they represent.

The members are private individuals who are managers within the meaning of the Banking Act (Article L. 511-13 of the Financial and Monetary Code) at one or more member institutions. They are appointed or elected for four years on the basis of the sum of the certificates of association held (see below) and fees paid in the year preceding the appointment. The ex officio members are appointed by the Commission Bancaire and the other members are elected under a system of voting based on contributions.

The Supervisory Board has the combined prerogatives of the governing body and the AGM of a joint-stock company.

The Supervisory Board carries out the duties defined in Section 128 of the Act of 24 July 1966 on commercial companies (Article L. 225-68 of the new Commercial Code), but it also exercises the powers normally vested in the general meeting of shareholders at a joint-stock company. It therefore decides, on a proposal from the Managing Board, on all important issues relating to the tasks and operation of the fund, i.e. involvement, action for damages, purchase and sale of assets in the event of involvement, byelaws, budget, supervision of the fund's management, appointment of auditors, approval of the accounts, appointment and dismissal of members of the Managing Board. The Minister of the Economy, Finance and Industry, the Governor of the Banque de France, the Chairman of the Commission Bancaire and the Chairman of the CMF can consult with the Supervisory Board (and the Management board). Decisions are taken by a simple

majority of the votes expressed on the basis of the total financial contribution of each member and the total contribution of those institutions that have appointed the member as their representative. In the event of a tie, the Chairman has the casting vote.

The Managing Board is responsible for the fund's day-to-day running.

The Managing Board is made up of three members appointed by the Supervisory Board. Unlike the members of the latter body, the members of the Managing Board may not at the same time hold positions at member institutions. The Managing Board, which is responsible for the fund's day-to-day running, decides the interest rate payable on the certificates of association and collateral deposits, draws up the annual accounts, defines the conditions applying to any preventive action to be taken by the fund. The Managing Board may also take action for damages against the managers of institutions that are the subject of fund involvement. The Chairman of the Managing Board, who must be approved by the finance minister, has certain rights: he is a member of the Credit Institutions and Investment Firms Committee (CECEI). He may be consulted by the Commission Bancaire at his own or the latter's request on any matter concerning an institution that might require fund involvement. His opinion is also sought in the event of any amendment to CRBF regulations relating to the fund, and he represents the fund with respect to third parties and in any legal proceedings.

3.2. The scheme takes account of risks in various ways

3.2.1. An ex ante fund provides a greater degree of security in the way intervention is handled

Unlike under the earlier AFB scheme, where a call for contributions was made after a problem had been identified (ex post), the fund is provided with resources progressively on an ex ante basis. This is a particular feature of the schemes operating in the United States and Canada.

The fund is based on an ex ante system, meaning that depositors are compensated quickly and the burden of contributions can be spread over time.

The advantage of this arrangement is that it meets the practical need for a scheme that compensates depositors as quickly as possible. In this respect a stock of funds raised in advance probably increases confidence in the scheme's effectiveness, and the progressive build-up of funds allows contribution payments to be spread over a period of time and factored in when institutions draw up their management plans. By contrast, in the case of ex post contributions most of the burden usually falls at a time when the sector is experiencing difficulties which may be the source of the default(s) and, in any case, the deposit insurer may be in a relatively weak position to ask for contributions from its members. Another advantage of the ex ante arrangement is that all members pay up, including any future defaulting institution, which will have previously contributed its share. In an ex post system the defaulting institution is the only one not to contribute.

In the French deposit guarantee fund there are two sorts of contribution, namely certificates of association and annual fees.

Payments to the fund are evidenced both by certificates of association, which represent membership…

Each institution, when it joins the fund, subscribes to a certificate of association, which constitutes the material evidence of fund membership in the form of non-negotiable registered securities. The certificates of association are the last resource to which losses can be charged after the other resources have been absorbed. They are repaid to their subscribers in the event of a withdrawal of authorisation, except in the event of a merger, where they are added to the certificate of the acquiring entity (see point 3.3 of Annexe 2). Certificates of association bear interest at a rate that may not exceed the average yield on ten-year government bonds issued in the calendar year of their subscription.

Half of the total amount of these certificates, set at EUR 500 million, was paid up in 1999 and 2000.

…and by annual premiums.

The annual contributions represent the funds "ordinary" resources. Each member must pay its contributions in two half-yearly instalments, in principle for the same amount. Half of these amounts are irrevocably made over to the fund, while the member may opt to replace the other half by a guarantee commitment. This is valid for five years and takes the form of an undertaking to pay during the following five years the unpaid portion of the contributions, immediately upon request by the fund. It also requires the member to create at the fund a surety deposit for an amount equal to the portion of the unpaid contribution. These deposits are frozen for five years and bear interest on the same terms as those applying to certificates of association. At the end of five years institutions once again have free access to the funds, less any losses charged thereto.

The total amount of contributions is set at EUR 950 million, paid at a decreasing rate between 1999 (EUR 400 million) and 2002 (EUR 100 million).

New members are required to pay a supplementary contribution in order to reflect the fact that they are benefiting from a fund already in existence. The idea is that they should have caught up with their payments after five years, by means of a 10% premium on the ten half-yearly payments, with respect to total contributions already paid.

The amount of the contributions dedicated to investor protection has been set at EUR 70 million, to which are added EUR 10 million in respect of certificates of association. The scheme covering guarantees has funds of EUR 27 million in the form of annual contributions.

Members' funds are mainly invested in debt instruments or shares in UCITS, whose assets chiefly comprise debt instruments of top-rated issuers selected from among the most active issuers on the Paris market.

3.2.2. Contributions to the fund are adjusted in the light of members' risk exposure

The calculation base for contributions is the same for the certificate of association and the annual contribution. It is made up of the amount of deposits and other repayable funds and takes account of the institutions' financial situation in two ways, i.e. via a gross indicator and a synthetic risk indicator. Each member's gross indicator incorporates, in addition to the amount of the deposits, one-third of the amount of lending up to the figure for total deposits. Lending is included in the calculation base on the grounds that it is the main source of banking risks.

However, what would otherwise be a rather crude approach is modified by the application of four risk indicators which modify the aforementioned base by plus or minus 25%.

The synthetic risk indicator comprises four criteria.

The four risk indicators relate to solvency (or capital adequacy), risk diversification, operating profitability and maturity mismatching activity. These four criteria are calculated on the basis of the accounting and prudential data which credit institutions submit to the General Secretariat of the Commission Bancaire, which is responsible for calculating individual contributions (see Annexe 2).

Contributions for the investor-protection and bank-guarantee protection mechanisms also include risk indicators.

In the case of investor protection, the calculation base for contributions consists of the financial instruments held by clients (excluding OTC derivatives) and related deposits. It is weighted to take account of the level of capital cushioning and the profitability of the member's business. The calculation base in the case of the protection provided for guarantees is derived from material off-balance-sheet data for the member, weighted by a factor reflecting the institution's solvency.

This approach is the same as that adopted by the most sophisticated deposit guarantee systems, which operate according to the principle applied in insurance, whereby the amount of the premium is proportional to the risk that the member represents. In concrete terms this risk is embodied, firstly, in the total amount of deposits to be repaid in the event of a default and, secondly, in the risk of an actual default, which is assessed on the basis of information of a prudential nature.

It reduces moral hazard and contributes to crisis prevention, even though it is complex to implement.

This arrangement helps to reduce the moral hazard by making those institutions carrying the highest risk pay more and by lightening the burden on the lower-risk institutions. For this reason it can be an additional factor in disciplining members and preventing crises. The main difficulty in this approach arises when putting it into practice: it requires a rigorous accounting and prudential framework, where compliance is underpinned by internal auditing rules, external auditors and the supervisory authorities. It also requires a highly developed system of information and calculation able to reflect changes in the risk profile of each of its members. This is the reason why such a system has so far only been introduced in a few countries — usually among the most developed — while other countries have opted for a flat-rate approach based exclusively on the amount of deposits.

The Commission Bancaire plays a key role in the French deposit guarantee system.

The fact that the deposit guarantee scheme is geared towards preventing risks does much to explain the important role which the Commission Bancaire plays in it. The Commission is involved whenever a bank defaults and so has unrivalled experience in this area. In particular, it assesses the probability of a credit institution defaulting, which must be done before the matter is referred to the deposit guarantee fund, and evaluates the implications. The fact that membership of the deposit guarantee scheme is a condition of a bank's authorisation also requires the Commission's involvement in monitoring compliance with the conditions of such authorisation. Finally, at the practical level, the accounting and prudential information needed to compute risk-based premiums is sent to the Commission Bancaire, and it is the Commission that has the legal authority and technical expertise to check its accuracy. In this capacity it is empowered to impose penalties if the information required for calculating the contributions arrives late or is inaccurate.

3.3. Original approach adopted in the French deposit guarantee scheme

In addition to dealing with a problem in the banking sector in the traditional manner expected of a deposit guarantee fund, one of the novel features of the French scheme is its statutory responsibility of crisis prevention.

3.3.1. Preventive action

The deposit guarantee fund can intervene in a preventive capacity at the request of the Commission Bancaire...

The Commission Bancaire is authorised to ask the deposit guarantee fund to intervene in a preventive capacity if the situation at a credit institution raises fears that its deposits may eventually become unavailable for repayment. However, it is the fund's Supervisory Board that decides, in the light of a report from the Managing Board, whether to intervene. If it so decides, it defines the terms and conditions of its involvement following consultation with the Commission Bancaire.

The fund may support efforts made by shareholders to prop up the credit institution or any action taken by a central organisation that seeks to guarantee the solvency of a member institution. However, in that event the fund is entitled to make its support conditional upon the sale of all or part of the institution or the termination of its activity, especially through the sale of its business assets. The fund itself may also buy the shares of the institution concerned. Besides, it may take all actions against the *de jure* or *de facto* managers in order to obtain reimbursement of all or part of the sums it has paid.

...to minimise the cost of dealing with banking problems.

The preventive arrangements, which are not explicitly provided for in the European Directive, are similar to practices characteristic of deposit guarantee schemes that enjoy wide powers, such as those in the United States or Canada. The objective here is to deal with the problems at least cost by allowing action to be taken at the earliest opportunity — subject to joint agreement between the authorities and fund — in order to prevent a failure and bring about an orderly termination of business in a manner that is cheaper and faster that the procedure for compensating clients after a loss.

3.3.2. Remedial action

The fund usually steps in when a failure is manifest.

More in line with its traditional function, if the Commission Bancaire finds that a credit institution is no longer able to repay the funds it has received from the public immediately or at an early date, it will ask the fund to take remedial action. This will also happen if financial instruments held on behalf of clients become unavailable or an institution is unable to meet its guarantee commitments. Such action will be announced by a press notice published by the Managing Board.

When the fund intervenes in this way, the institution in question is removed from the list of authorised institutions and its corporate personality is dissolved.

3.4. The scope of cover and the rules on repayment ensure that depositors receive the appropriate degree of protection

3.4.1. Broad definition of deposits

Deposits and other repayable funds are defined as any credit balance deriving from funds left on an account or from temporary situations arising from normal banking transactions which the credit institution is required to repay under legal and contractual terms and conditions that are applicable, particularly with regard to compensation.

Compensation is not payable in respect of well-informed depositors…

However, some exceptions apply. Firstly, those depositors with access to information that is unavailable or not readily available to "small depositors" are not entitled to compensation. This applies for example to companies operating in the financial sector, such as credit institutions, investment firms, insurance companies, UCITS, retirement and pension funds and any organisation offering financial services.

…or depositors having a special relationship with the banks…

Private individuals or corporate bodies with a special relationship with the bank in question, and therefore with access to particular information about it, are also excluded from compensation. This applies to the institution's managers, directors, external auditors or any depositor with a similar status at other companies in the same group, which are likewise excluded.

…or deposits resulting from questionable transactions…

Secondly, certain deposits can be excluded because of the nature of the transactions involved, such as money laundering or transactions likely to impair the institution's financial situation, e.g. because of excessive rates of interest paid on the deposits in question.

…or on specific categories of deposit.

Finally, certain deposits are by their very nature excluded, namely deposits in the name of States or central governments or those eligible as the institution's own funds within the meaning of Regulation 90-02 of the CRB, negotiable debt securities and deposits in foreign currencies other than those of States that are party to the Agreement on the European Economic Area.

The ceiling is set at EUR 70,000 per depositor.

The ceiling on compensation is set at EUR 70,000 (or FRF 460,000) per depositor, which is higher than under the previous system, when it was FRF 400,000, and well above the European minimum of EUR 20,000. This ceiling applies to the total amount of deposits at a single credit institution, irrespective of how many deposits there are and where they are held within the European Economic Area. In this respect, therefore, France offers some of the strongest guarantees in Europe.

The compensation ceiling in respect of investor protection has also been set at EUR 70,000 and applies to financial instruments and to deposits, e.g. those resulting from a recent sale of securities.

The compensation or renewal of a commitment in respect of bank guarantees is capped at 90% of the cost that the defaulting institution would have had to bear. The fraction on which no compensation is due cannot be less than EUR 3,000.

3.4.2. The compensation arrangements aim to ensure the speedy repayment of deposits

Depositors eligible for compensation are informed individually by the deposit guarantee fund.

If the deposit guarantee fund is required to intervene, it sends a registered letter to all depositors identified as being eligible for compensation, informing them that their funds have become unavailable and stating the amount of their deposits for which the fund is assuming liability.

The client has fifteen days after receipt in which to make comments or raise objections. Otherwise the client is required to return the schedule approved, stating the number of the account to be credited with the compensation payment. The letter will also give details of the procedure to be followed in the event that joint legal action is taken against the defaulting credit institution, in order to inform the creditors' representative or the liquidator of any claims that may have been excluded from compensation by the deposit guarantee fund.

Payment times are very short.

Payment times are very short: the fund having only two months from the date on which the Commission Bancaire requests it to act in which to complete the operation. Nonetheless, if circumstances require, this period may be extended by two months and then, if necessary, by two further periods of two months each. However, depositors may continue to enjoy the protection provided if they can show that they were unable to submit their claim within the allotted timeframe.

The fund steps into the shoes of its beneficiaries in the event of collective procedures.

As a natural consequence of the role which the deposit guarantee fund plays vis-à-vis depositors, and in accordance with the provisions of the 1994 Directive, the fund can step into the shoes of its beneficiaries and sue for an amount equivalent to the sums it has paid. Therefore, as one of the main creditors, it may take an active part in any joint legal proceedings, by having itself appointed auditor and by also representing the banks in the courts.

CONCLUSION

The current deposit guarantee scheme, which was introduced in 1999, has not been called upon to any significant degree since there have been few bank failures in recent years. The fund has intervened only once to protect deposits, thus providing a practical opportunity to test the validity of the choices adopted. The failure of an institution that extended individual housing related guarantees largely determined the nature of the specifically French guarantee protection arrangements as enshrined in the law. Up to now the fund has not had to intervene in respect of investor protection.

While the French system follows the requirements of the European directive, it does have specific features aimed at offering maximum banking security and the greatest possible protection of depositors' interests. The legal structure in place appears to be comprehensive and solid.

At a more informal but nonetheless palpable level, it also relies on the close collaboration that exists between the authorities and the banking community and of which the fund itself is an outward manifestation. This adds the elements of flexibility and pragmatism that are needed in the successful handling of defaults.

Any economic and legal developments that might have implications for depositor protection can easily be taken into account by making adjustments to the CRBF regulations or to the deposit guarantee fund's rules of internal procedure. Such developments, which include the growth in business conducted under the freedom to provide services and in Internet banking, as well as the progress made in European harmonisation in the areas of banking and finance, will need to be accommodated by the deposit guarantee arrangements.

Annexe 1

LEGAL AND REGULATORY TEXTS AND INSTRUCTIONS OF THE COMMISSION BANCAIRE

Creation of mechanisms and determination of members

- Deposit guarantee funds: Article L312-4 of the Financial and Monetary Code (Comofi)
- Securities guarantee mechanism: Comofi Article L322-1
- Guarantee protection mechanism: Comofi Article L313-50

Internal functioning

- **Legal nature and management of deposit guarantee funds**: Comofi Articles L312-9 to 15
- **Nomination of Supervisory Board members**: CRBF Regulation 99-06 of 9 July 1999, Articles 10 to 14, as amended by CRBF Regulation 2000-07 of 6 September 2000
- **Representation of the securities guarantee mechanism to the fund Supervisory Board**: CRBF Regulation 99-15 of 23 September 1999, Articles 11 to 14, as amended by CRBF Regulation 2000-08 of 6 September 2000
- **Amounts allocated to funds**
  - Deposit guarantee: CRBF Regulation 99-08 of 9 July 1999, as amended by CRBF Regulation 99-18 of 23 November 1999
  - Securities guarantee: CRBF Regulation 99-17 of 23 September 1999
  - Protection of guarantees: CRBF Regulation 2000-06 of 6 September 2000, Article 10
- **Funds financial resources**
  - Deposit guarantee: Regulation 99-06, Articles 1 to 9
  - Securities guarantee: Regulation 99-15, Articles 1 to 10
  - Protection of guarantees: Regulation 2000-06, Articles 4 to 9

Implementation of guarantee mechanisms

- **Fund triggering mechanisms**: Article L312-5
- **Indemnity procedures and timeframes**
  - Deposit guarantee: CRBF Regulation 99-05, Articles 7 to 10
  - Securities guarantee: CRBF Regulation 99-14, Articles 7 to 10
  - Protection of guarantees: CRBF Regulation 99-12, Articles 1 and 2
- **Guarantee base**

- Deposit guarantee: CRBF Regulation 99-05 of 9 July 1999, Articles 2 to 4
- Securities guarantee: CRBF Regulation 99-14 of 23 September 1999, Articles 2 to 4
- Protection of guarantees: Decree 99-776 of 8 September 1999, in application of Comofi Article L313-50, amended by Decree 2000-699 of 19 July 2000

– **Indemnity ceiling**
  - Deposit guarantee: CRBF Regulation 99-05, Article 5
  - Securities guarantee: CRBF Regulation 99-14; Articles 5 and 6
  - Protection of guarantees: CRBF Regulation 99-12, Articles 3 and 4

Contributions of members

– **Calculation of contributions**
  - Deposit guarantee: CRBF Regulation 99-06
  - Securities guarantee: CRBF Regulation 99-15, Annex
  - Protection of guarantees: CRBF Regulation 2000-06, Annex

– **Special regime for networks**
  - Deposit guarantee: CRBF Regulation 99-06, Annex, point 3
  - Securities guarantee: CRBF Regulation 99-15, Annex, point 3
  - Protection of guarantees: CRBF Regulation 2000-06, Annex, point 3

– **Special regime for branches of institutions of the European Union (supplementary membership for deposits and securities guarantees or optional for surety guarantees)**
  - Deposit guarantee: CRBF Regulation 99-07 of 9 July 1999, Articles 6 to 10
  - Securities guarantee: CRBF Regulation 99-16, Articles 6 to 10
  - Protection of guarantees: CRBF Regulation 2000-06, Articles 2 and 3

– **Regime for branches of institutions outside the European Union**
  - Deposit guarantee: CRBF Regulation 99-07, Articles 2 to 5
  - Securities guarantee: CRBF Regulation 99-16, Articles 2 to 5
  - Protection of guarantees: CRBF Regulation 2000-06, Article 1, paragraphs 2 and 3

Annexe 2

CALCULATION OF CONTRIBUTIONS TO THE DEPOSIT GUARANTEE FUND

1. CALCULATION OF CONTRIBUTIONS

1.1. The net base

Net base = total deposits + gross risk indicator

in which:

- deposits = deposits and other repayable funds in **euros** payable in France (and overseas departments)

- gross risk indicator = 1/3 of the loan portfolio but not exceeding total deposits

1.2. The synthetic risk indicator

The synthetic risk indicator is the arithmetic mean of the following four criteria:

- solvency,

- operating profitability,

- risk diversification,

- maturity mismatching.

All these criteria are assessed according to a rating of 1 to 3 (a higher rating denotes a higher risk).

1.3. The risk ratio

The risk ratio is obtained by converting the synthetic risk indicator into a variation coefficient by resolution of the following linear system:

- 75% ↔ synthetic risk indicator 1,
- 100% ↔ synthetic risk indicator 2,
- 125% ↔ synthetic risk indicator 3.

That is, the risk ratio equation = 0.25 x synthetic risk indicator + 0.5.

1.4. The net risk amount and the net share of risk

The **net risk amount** is obtained by multiplying the net base by the risk ratio.

A credit institution's **net share of the risk** is equal to its net risk amount in relation to the aggregate net risk amounts of all member credit institutions.

1.5. Last stage

The contribution is equal to the **net share of the risk multiplied by the total amount to be shared**.

Some credit institutions (e.g. those only recently authorised) will not be able to provide the data needed for the calculation. **These will pay the minimum contribution**, which reduces the total amount to be shared among the other credit institutions. The minimum annual contribution is EUR 4,000.

1.6. The special case of mutual institutions

The networks of mutual or cooperative institutions enjoy special treatment when it comes to calculating the contributions, since they are assessed **at two levels**:

- at the **global network level**, for the purposes of calculating the total contribution for the network,

- at the **individual level**, for the purposes of sharing the network contribution among the various network members which also are individually members of the fund, on the basis of their respective risk exposure.

The idea behind this special treatment is that these **networks should be regarded** not as a group of credit institutions, but **as a single credit institution with several branches**, as is the case, for example, with AFB banks having a network of establishments.

The network is therefore assessed on aggregated figures for all the criteria included when calculating the contributions.

The individual risk assessment serves as the key for determining the apportionment.

2. RISK ASSESSMENT CRITERIA

2.1. The solvency criterion

This is measured according to the level of the Tier 1 ratio:

– **numerator: core capital** [1] (Line 121 of Return 4008 or 4009 C or NC),

– **denominator: weighted lending** (Line 760 of Return 4008 C or NC) or capital requirements (Line 182 of Return 4009 C or NC).

Level of Tier 1 ratio	Level of solvency ratio
≥ 9% (resp ≥ 112,5)	1
≥ 6% (resp ≥ 75) and < 9% (resp < 112,5)	2
< 6% (resp < 75)	3

2.2. The criterion of operating profitability

This is expressed by an operating ratio:

– the numerator comprises general costs, appropriations to depreciation of tangible and intangible fixed assets, net appropriations to provisioning for tangible and intangible fixed assets, less cross-charged expenses;

– the denominator comprises:

+ the profit (loss) from banking operations

+ net adjustments for over-provisioning on depreciation of securities held for sale

- interest on doubtful debts

+ other income

+ cross-charged expenses, less those relating to numerator items

- rebated income

+ net share in non-banking transactions conducted jointly

+ net share in registered office costs

[1] less, for that portion which exceeds supplementary capital, equity investments and subordinated debt as defined in Article 6 of Regulation 90-02 (adding Lines 136 or 135 - 142 in Return 4008 or 4009 C or NC if this amount is less than 0).

Level of operating ratio	Level of operating profitability criterion
< 65%	1
≥ 65% et < 70%	1.5
≥ 70% et < 75%	2
≥ 75% et < 85%	2.5
< 0 or ≥ 85%	3

2.3. The risk diversification criterion

This compares the total amount of **the 10 largest exposures** that are not eligible for refinance by the European System of Central Banks **with core capital** at the credit institution.

This criterion was included for the first time in the calculation carried out as at 31 December 2000.

Level of the 10 largest exposures	Level of the risk diversification criterion
< 30% Tier 1	1
< 60% and ≥ 30% Tier 1	2
≥ 60% Tier1	3

2.4. The maturity mismatching criterion

This is determined on the basis of the following maturity mismatching ratio:

- numerator: difference between assets and liabilities at more than one year's notice,
- denominator: capital.

The ratio is calculated over three consecutive periods and an average is taken in order to arrive at the criterion.

Level of the maturity mismatching ratio	Level of the maturity mismatching criterion
< 100%	1
< 200% and ≥ 100%	2
≥ 200%	3

This criterion is only considered significant if assets and liabilities at more than one year's notice represent more than 20% of banking business.

3. PRACTICAL ARRANGEMENTS

3.1. Dates and penalties

– The Commission Bancaire must without fail calculate the contributions by 25 May and 25 November (for the June and December payment dates).

– If any of the **documents** needed for calculating the various criteria are **missing or inaccurate**, the credit institutions is assigned **a 3 rating** for the criterion or criteria in question and possibly also for the synthetic risk indicator.

– If the **deposit base cannot be calculated** because the credit institution is late in sending the data needed to calculate it or the data re incomplete, the base which was calculated as at the preceding date is increased[1] by:

- 10% in respect of that portion of deposits that is less than EUR 3 billion,

- 5% for those upwards of that amount.

3.2. Treatment of contributions and certificates of association in the returns submitted to the Commission Bancaire

Contributions are recorded in the profit and loss account under Item **V2P "Other banking expenses"**.

If a credit institution **decides to pay** half its contribution **in the form of a guarantee deposit** (Article 6 of CRBF N° 99-06), this will be assigned to Item **E7H "Various debtors"** and will constitute a claim on the fund. The other half will be charged to Item V2P.

Certificates of association are normally registered under "Other intangible fixed assets for operational purposes".

3.3. What happens when a credit institution leaves the fund

When **a decision to withdraw** a credit institution's **authorisation** takes effect, **its certificate of association is redeemed**, no later than the end of the month in which the withdrawal of authorisation becomes effective, **at its nominal value** plus any interest accrued up to the redemption date.

However, since the entry into force of Regulation 2000-07 on 1 November 2000, **if withdrawal of authorisation is due to one member institution being merged into another**, the redemptions proceeds will be added to the amount of the acquiring entity's certificate. **In this event, the interest due is**

[1] Except in the event of **force majeure**, in which case the deposit base is taken as the average of the three previous ones.

not repaid, but the new amount of the certificate serves as the basis for calculating the interest due to the acquiring entity as from the beginning of the year in question.

However, if the deposit base of the acquired entity is zero, the proceeds from redemption of its certificate are paid to the acquirer.

Lastly, if a member institution is struck off the list of authorised institutions, the certificate is not repaid and its amount belongs to the fund.