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## Treatment of special cases

*How does the French DGS compensate beneficiary accounts ?*

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## What are beneficiary accounts used for, by whom ?

*Some regulated activities have to use “beneficiary accounts”, in order to separate and protect the funds coming from different clients whom are the beneficiaries.*

*Example : **Lawyers’ and professional beneficiary accounts***

- *The lawyer may receive funds in his professional practice on behalf of his clients or on behalf of third parties;*
- *Funds held must be mandatorily deposited within the **Lawyer’s professional account** which is a “beneficiary account” (specific account agreement)*
- *Each beneficiary has to be identified by the lawyer*



## **Other examples of regulated activities in France**

***Travel agencies*** : money received to book tourist services

***Real estate agencies*** : money received for real estate transaction

***Property managers*** : for payment of condominium fees

***Investment services companies*** : client's cash balances

***Property developers*** : money received for works financing

## What does DGSD2 say about beneficial owners ?

### *Article 7 – Determination of the repayable amount*

*3. Where the depositor is not absolutely entitled to the sums held in an account, the person who is absolutely entitled shall be covered by the guarantee, provided that that person has been identified or is identifiable before the date on which a relevant administrative authority makes a determination as referred to in point (8)(a) of Article 2(1) or a judicial authority makes a ruling referred to in point (8)(b) of Article 2(1). **Where several persons are absolutely entitled, the share of each under the arrangements subject to which the sums are managed shall be taken into account when the limit provided for in Article 6(1) is calculated.***

**→ Beneficiary account constitutes a special case for compensation handling**

## French regulatory framework : guiding principles (on top of DGSD2 requirements)

Distinction between two categories of depositors :

- **Direct depositor** : client who has opened account in his name and on his behalf
- **Indirect depositor** : (partial) beneficiary of an account not opened by him, neither held by him, nevertheless exposed to the failure of the bank

➔ *Because of his lack of control over the holding of the account*

- Each beneficiary for the given account is covered by law within a “new” limit of 100 000 €, independently of any other compensation he could (directly or indirectly) benefit
- No application of eligibility rules for the beneficiary

## French regulatory framework : additional rules

- In case the holders of the account has accepted negative balances from some beneficiaries, those negatives balances should be recovered by **the holder directly** from those beneficiaries
- FGDR takes those negative balances into account to calculate the amount of money it sends to the account holder. Otherwise, the account holder would make a windfall profit at FGDR's expenses

### ***Process / Treatment***

- Credit institutions have to mark all their “beneficiary accounts” with a specific tag
- In case of failure, and after receipt of the proofs (*account agreement, beneficiary list, current balances, ... etc.*) each identified beneficiary is paid, **by the holder of the account from the compensation received from FGDR**
- FGDR sends the account holder a list of all compensations due to the beneficiaries and the corresponding funds less the sum of negative balances

# Example



Beneficiary account identified with 4 beneficiaries  
Account balance : **320 000 €**



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Payout after receipt of the proofs

Each identified beneficiary is paid according to its current balance on the beneficiary account

**Direct Client 1**

Account position : 70 000 €  
Payout = 70 000 €

70 000 € as direct depositor

80 000 as indirect depositor

**Indirect Client 1**

Account position = 80 000 €  
Payout = 80 000 €

**Indirect Client 2**

Account position = 130 000 €  
Payout = 100 000 €

**Indirect Client 3**

Account position = 140 000 €  
Payout = 100 000 €

**Indirect Client 4**

Account position = - 30 000 €  
Payout = 0 €

**Account position = 320 000 €**  
**Total of compensations due = 280 000 €**  
**Inc. financed by FGDR = 250 000 €**