

APPLICATION FOR A CLAIM OF DEBARMENT

Checking debts is an important operation for creditors. On the occasion of a collective settlement concerning the creditors' liabilities and debts, each creditor must control the substance of the rights he/she wishes to claim.

The declaration is a petition made by the creditor to the supervisory judge ("le juge commissaire") to recognize he/she has some rights. All creditors, except employees, must declare their debts to the creditors' representative (through the legal representative or an agent). The supervisory judge may then either accept it or reject it.

Creditors who have not declared their debts to the creditors' representative within 2 months starting from the publication of the opening judgement in the BODACC (official bulletin of civil announcements) are barred. They are thus excluded from the payment of debts.

Exception: The debarment is not enforceable against creditors that hold security interest or a published contract if the creditors representative did not personally tell them that they had to declare their debts. This responsibility lies with the creditors' representative except if the debtor or his/her legal representative did not get the existence of all creditors to his/her knowledge. The barred creditor can be debarred if he/she provides an application for a claim of debarment. He/she must prove that his/her negligence is not his/her own or is the consequence of a voluntary omission from the debtor when the list of debts was drawn up.

Legal references : Article L 622-26 of the Commercial code, Article 99 of the decree n° 200-1677 of December 28th 2005.

Claim for debarment: proceedings and documentary evidence to provide to the Registry ("le greffe") of the Commercial court of Paris

CONDITIONS: The creditor that didn't declare his/her debt (within two months pursuant the publication of the opening judgement of bankruptcy or liquidation procedure in the BODACC) because of unavoidable reasons may submit a claim to the supervisory judge in order to be debarred (the debarment punishes the absence of declaration within the legal period of limitation).

There are no formal requirements. In most instances, a registered letter with return receipt is a good way to get a certain date.

How to make an application?

- The claim is made through a declaration to the Registry.
- The declaration must be submitted at the sole counter of the Registry (office 11) in five original copies (including the original claim with our references), stating that the debarment is not due to the creditor's behaviour, and providing the documents accounting for the existence of the debt (in two original copies).
- The due date of the debt(s) must be stated.

Fees

[Click here to know the fees.](#)

Legal time period:

The claim must be submitted within 6 months, starting from the publication of the procedure's opening judgment. Concerning the creditors holding a security interest or a published contract, the 6 months time period starts from the receipt date.

Exceptionally, a 6 months additional period can be granted to creditors who were unable to know the existence of the debt before the end of the initial 6 months period.

N.B: The debarred creditor can only participate to the distributions that occur after he/she made his/her claim.

Proceedings:

All documents, earlier mails and deposit must be given to the Registry and will be transferred to the supervisory judge.

Once the deposit is made, the answer should be made within 1 to 3 months, including the claim for observations given by the Registry to the agent, who then has 15 days to answer.

The Registry transfers the claim to the supervisory judge, regardless of the reception or not of the observations. The supervisory judge may consider the information to be complete enough, in which case he/she issues an order, or he/she may choose to hear the parties during a hearing.

The order is submitted to the Registry. The registrar notifies the order to the applicant and informs the agents.

The potential debarment does not lead to an admission of the debt, which must be controlled according to the law.

Appeal:

The supervisory judge's decision can be appealed before the Court of Appeal.

« Tierce opposition » (third party opposition) can be admitted within 10 days starting from the submission of the order to the Registry.