

# STATES OF JERSEY



## JERSEY BANK DEPOSITORS COMPENSATION BOARD: APPOINTMENT OF STATES OF JERSEY REPRESENTATIVE

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Lodged au Greffe on 27th December 2017  
by the Chief Minister

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STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

in pursuance of Regulation 10 of the Banking Business (Depositors Compensation) (Jersey) Regulations 2009 to appoint Mr. Tom Fothergill as a member of the Jersey Bank Depositors Compensation Board, with effect from the day following the States debate, for a period of 5 years without remuneration and subject to such other terms and conditions as may be agreed by the Chief Minister.

CHIEF MINISTER

## **REPORT**

The Jersey Bank Depositors Compensation Board (“Board”) was established under the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) (“DCS Regulations”) to administer the Jersey Bank Depositors Compensation Scheme.

Part 2 of the DCS Regulations deals with the establishment of the Board and appointment of board members (“Members”). Regulations 10 and 11 of the DCS Regulations provides as follows –

### **“10 Constitution of the Board**

- (1) The Board must have at least 3 members.
- (2) The members of the Board shall be appointed by the States on the recommendation of the Minister made after consulting with the Appointments Commission.
- (3) A person shall not be eligible for appointment as a member of the Board if the person is –
  - (a) a member of the States;
  - (b) subject to a disqualification order under Article 78 of the Companies (Jersey) Law 1991 or Article 24(7) of the Bankruptcy (Désastre) (Jersey) Law 1990; or
  - (c) bankrupt.
- (4) The appointment of a person as a member of the Board ceases if the person becomes a person who may not be appointed to be a member of the Board.
- (5) The rights and obligations of the Board, and the performance of its functions, shall not be affected by –
  - (a) any vacancy in its membership; or
  - (b) any defect in the appointment of a member.

### **11 Terms and conditions of appointment of members of the Board**

- (1) A person appointed to be a member of the Board –
  - (a) holds the appointment on terms and conditions agreed between the person and the Minister; and
  - (b) may be reappointed.
- (2) The terms and conditions must include terms and conditions in respect of –
  - (a) the term of the appointment of the member, being a term not exceeding 5 years;
  - (b) the manner in which the member may resign during that term;
  - (c) the grounds upon which the appointment of the member may be terminated during that term;
  - (d) the remuneration (if any) of the member,

and may contain such other terms and conditions as the Minister may consider appropriate or necessary.

- (3) The grounds mentioned in paragraph (2)(c) must include –
  - (a) the member being mentally or physically incapable of carrying out his or her functions as a member; and
  - (b) the member being convicted of an offence that carries a penalty of imprisonment for a term of 2 years or longer.”

## **Background**

### *Mr. Tom Fothergill*

Tom Fothergill was appointed Lead Policy Advisor, Banking and Corporate in the Financial Services Unit of the Chief Minister’s Department in October 2017. Mr. Fothergill was previously seconded to the Financial Services Unit in 2015 during which time he facilitated the creation of the Bank (Recovery and Resolution) (Jersey) Law 2017 and supported the Bank Resolution Working Group.

Prior to his appointment Mr. Fothergill was a private practice corporate lawyer. Mr. Fothergill specialised in the regulation and restructuring of offshore banking and insurance businesses. Mr. Fothergill has extensive expertise advising on crisis contingency planning and on banks’ compliance with resolution and ring-fencing reform programs. Mr. Fothergill has previously served as an officer in the British Army and as a director of a catering management business.

It is appropriate that the States of Jersey and Chief Minister’s Department be represented on the Board. Mr. Fothergill is not a budget holder in relation to the Board and his appointment is not a conflict.

It is not necessary for Mr. Fothergill’s appointment to be referred to the Jersey Appointments Commission as he is being appointed solely in his capacity as an employee of the States of Jersey.

## **Other Board Members**

The other members of the Board are –

Mr. Paul Leary (*Chairman*)

Mr. Michael Halsey F.C.A. (*Secretary*)

Advocate Mark Dunlop

Mr. Peter Shirreffs

## **Financial and manpower implications**

There are no financial or manpower implications for the States arising from this proposition.