

STATES OF JERSEY



DRAFT BANK (RECOVERY AND RESOLUTION) (JERSEY) AMENDMENT LAW 202- (P.42/2025): COMMENTS

**Presented to the States on 4th July 2025
by the Economic and International Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

The Draft Bank (Recovery and Resolution) (Jersey) Amendment Law 202- [\[P.42/2025\]](#) (hereafter referred to as the “Draft Law”) was lodged *au Greffe* on 27th May 2025 by the Minister for External Relations (hereafter referred to as the Minister) and is scheduled for debate at the States’ sitting commencing on 8th July 2025. The Economic and International Affairs Scrutiny Panel (hereafter referred to as “the Panel”) has formed these comments to aid in the Assembly’s considerations.

The Draft Law primarily seeks to transfer the functions of the Jersey Bank Depositor Compensation Board (hereafter referred to as the “DCS Board”), currently established under the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) (hereafter referred to as the “2009 Regulations”), to the Jersey Resolution Authority (hereafter referred to as the “JRA”) through amendments to the [Bank \(Recovery and Resolution\) \(Jersey\) Law 2017](#) (hereafter referred to as the “2017 Law”).

The Panel has posed a number of questions on the transfer to the Minister during Public hearings and has received a briefing on the topic on 10th April 2024. The Panel has also recently written to the Minister, as well as relevant stakeholders, inviting any further comments on the Draft Law.

Transfer to Jersey Resolution Authority

The accompanying report to the Draft Law outlines the background of the 2009 Regulations, 2017 Law and formation of the JRA in detail and the Panel will not further highlight the history at this stage. The Panel, however, has requested further confirmation of the benefits of the transfer of the functions of the DCS Board to the JRA.

The Assistant Minister for External Relations, Deputy Elaine Millar, has outlined the focus of the Draft Law is on this transfer of functions, which she believes is sensible:¹

“I think the focus at the moment is on merging the Depositors Compensation Scheme into the Jersey Resolution Authority, which is a completely sensible thing to do because it is important that if there was a failure that the depositors compensation would be paid quickly and effectively and within international standards. By moving it into the J.R.A. (Jersey Resolution Authority), that facilitates that process, so it makes administrative changes. It means you have got one point of decision making and that will take some time to bed down.”

The JRA has also indicated that the Draft Law makes several enhancements to the Scheme that benefit depositors and help ensure the Scheme remains aligned to international standards and enable straight-through processing of compensation. The JRA identifies that this significantly improves the ability of the Scheme to make timely payment of compensation and reduces the administrative burden for the Authority and depositors.²

The JRA highlights that the Draft Law makes some amendments relating to bank resolution and acknowledges these are proposed at its request to better align Jersey’s

¹ [Transcript - Quarterly Hearing - Minister for External Relations - 10 June 2025](#)

² [Letter - JRA response to Amendments Law questions - 11 June 2025](#)

bank resolution regime to international standards and assist the JRA in its implementation. An example was given by the JRA of adding the power for the Minister for External Relations to prescribe criteria for eligible liabilities, which is proposed to enable the JRA to better implement its planned policy relating to the minimum requirement for own funds and eligible liabilities.

The JRA further indicates that transferring functions relating to the Scheme to the Authority, creates efficiencies in terms of the operation of Jersey's financial safety net and helps ensure timely flows of information during the lead up to or in the event of a failure of a Jersey bank.³

The Jersey Bankers Association has indicated its general support for the Draft Law, specifically:

- The benefits of the planned transfer of the functions of the DCS Board to the JRA
- The desire to better align with international best practice
- The benefits to consumers from improved delivery timescales to make compensation payments and the mechanism of "Straight Through Payout"

The Minister has further outlined that the framework in the Bank (Recovery and Resolution) (Jersey) Law 2017 offers a more appropriate approach for handling the failure of banks that are systemically important — either locally or globally — than relying solely on insolvency and compensation mechanisms:⁴

“An effective resolution framework seeks to prevent or manage the failure of a bank in a way that maintains financial stability, protect public funds and avoid the need for depositor compensation by ensuring depositors retain access to their funds. As noted, resolution tools and actions are typically utilised for larger or systemically important banks. These tools include bail-in mechanisms - such as converting debt into equity -, utilising loss absorbing capacity provided through maintenance of minimum capital and debt requirements (MREL), sale of all or critical parts of the bank by the Jersey Resolution Authority (JRA), or the creation of a bridge bank. Application of these tools, and the intended avoidance of insolvency, would negate the triggering of the compensation scheme.”

The Minister has also indicated that the resolution framework is designed to mitigate the impact of bank failure, particularly on depositors identifying that for larger, systemically important banks, insolvency and compensation are not considered viable solutions — primarily due to the scale of funding required to meet compensation obligations. Accordingly, the Minister suggests, resolution strategies for such institutions are expected to avoid insolvency proceedings and, by extension, the triggering of the compensation scheme. In contrast, the scheme is anticipated to be used primarily in the event of the failure of smaller, non-systemic banks.⁵

³ [Letter - JRA response to Amendments Law questions - 11 June 2025](#)

⁴ [Letter - Draft Bank \(Recovery and Resolution\) - 11 June 2025](#)

⁵ [Letter - Draft Bank \(Recovery and Resolution\) - 11 June 2025](#)

Consultation

The Panel was informed by the Minister that, along with formal consultations undertaken in [February](#) and [October](#) 2024, engagement with professionals from the insolvency and restructuring sector enabled close examination of the legal provisions within the Draft Law and that overall this engagement confirmed that the provisions are conducive to practical implementation. The Minister highlighted that adjustments were made following the consultation and engagement to enhance both clarity and functionality, with examples given: ⁶

- alteration of conflicting provisions in the Articles relating to the winding up of the scheme
- challenges related to accounting and reporting by simplifying the framework
- reporting requirements for the operation of the Depositor Compensation Fund have now been separated from the broader reporting obligations of the JRA
- practicality of enforcing the offence related to depositors failing to notify the JRA of payments received from other sources in connection with their deposit

In its scrutiny of the Draft Law the Panel wrote to the JRA, the Jersey Bankers Association, the Jersey Consumer Council, and the Channel Islands Financial Ombudsman to gain any further comment on the proposed changes.

The JRA has confirmed that it has been directly consulted in the drafting process of the Draft Law, and continues to work closely with the Government of Jersey to prepare for the transfer of the functions of the Scheme to the JRA.⁷ The Jersey Bankers Association has also confirmed that it has received proactive engagement both through its main committee, Prudential and Banking Reform sub-committee and bilaterally with its members.⁸

The Jersey Consumer Council has indicated that it was not consulted on the Draft Law.⁹

The Panel has not received any further views raising concern about the transfer of the functions of the DCS Board to the JRA and is therefore accepting of the principle of the transfer and Draft Law in this regard.

Amount of Deposit Compensated

A sustained area of consideration for the Panel has been the figure at which a deposit would be protected in the case of a collapse of a bank. This figure has not changed since the introduction of the 2009 Regulations and remains at £50,000 per depositor in the event of a bank being wound up, this is despite inflation over the same period having been 67%. The equivalent limit in the United Kingdom is £85,000 per depositor, having been increased in previous years including from a figure of £50,000 in 2019,¹⁰ and proposals to raise the figure to £110,000 proposed by the Prudential Regulation Authority.¹¹

⁶ [Letter - Draft Bank \(Recovery and Resolution\) - 11 June 2025](#)

⁷ [Letter - JRA response to Amendments Law questions - 11 June 2025](#)

⁸ [Letter - JBA response Draft Bank \(Recovery and Resolution\) \(Jersey\) Amendment Law 202 - 16 June 2025](#)

⁹ [Letter - JCC response Draft Bank \(Recovery and Resolution\) \(Jersey\) Amendment Law 202 - 13 June 2025](#)

¹⁰ <https://www.fscs.org.uk/media/press/2019/apr/higher-protection-limits/>

¹¹ <https://www.bankofengland.co.uk/news/2025/march/the-pra-proposes-raising-fscs-deposit-protection-limit>

In response to this point the Minister has outlined:¹²

“The deposit compensation limit in Jersey is currently set at £50,000, in line with the limits in Guernsey and the Isle of Man. While this is lower than the limits in some larger jurisdictions, such as the UK and the EU, it has historically been considered proportionate and appropriate given Jersey's size and the importance of maintaining depositor confidence without introducing undue costs.

Our current priority is supporting the transfer of the compensation scheme to the URA, along with the legislative changes required to facilitate this. These changes include measures to enable faster compensation payout — reflecting operational advancements within the scheme — as well as a range of administrative enhancements.

Our focus on these initiatives represent a significant step forward in strengthening Jersey's financial safety net and ensuring a robust, modern framework that supports both depositor protection and financial stability.

Subsequent to delivery of this work, consideration will be given to reviewing the compensation limit, to ensure it continues to reflect Jersey's needs and remains aligned with international expectations where appropriate.”

This is a position that has also been stated by the JRA who have indicated that Jersey's financial safety net has been enhanced by establishing the JRA as Jersey's bank resolution authority and that implementation of a resolution regime significantly strengthens Jersey's ability to manage a future banking crisis.¹³ Accordingly the JRA indicates that consideration of the £50,000 limit must take account of the broader financial safety net including the nature of Jersey's banks, on-going supervision by the JFSC, the bank resolution regime as well as the terms of the Scheme. The JRA also highlights that approximately 93% of bank deposits in Jersey are with banks whose groups would be subject to resolution by an established Home Resolution Authority such as the Bank of England.¹⁴

The Minister has previously identified that he would support an amendment for the compensation to be looked at,¹⁵ with the JRA agreeing that the terms of the Scheme, including limits, coverage and funding should be reviewed whilst expressing the view that such a review will be complex and will require extensive consultation with domestic stakeholders and other peer jurisdictions including Guernsey and the Isle of Man.¹⁶ During the Panel's [Proposed Budget 2025 - 2028 Review](#) the Minister supported this position:¹⁷

“This is part of the issue that you cannot just say you are going to do one thing without thinking about the implications of the rest of the scheme. I

¹² [Letter - Draft Bank \(Recovery and Resolution\) - 11 June 2025](#)

¹³ [Letter - JRA response to Amendments Law questions - 11 June 2025](#)

¹⁴ [Letter - JRA response to Amendments Law questions - 11 June 2025](#)

¹⁵ [Transcript - Quarterly Hearing - Minister for External Relations - 26 April 2024](#)

¹⁶ [Letter - JRA response to Amendments Law questions - 11 June 2025](#)

¹⁷ [Transcript - Proposed Budget 2025 - 2028 Review – Minister for External Relations - 15 October 2024](#)

think that the chair and the compensation board themselves say that, okay, while it is something that could be looked at, they take the view that it really should not be looked at before 2026 when we have got the resolution authority up and running and you have the depositor compensation scheme within that new resolution authority. They are the experts in this area, albeit they recognise it is a governmental decision. But their advice would be that you do not look at that until any earlier than 2026.”

The Jersey Bankers Association also expresses the view that reviewing the compensation limit will be a complex process that would need to have regard for many aspects of the scheme and the wider Recovery and Resolution framework to ensure any perceived benefits could be realised and not come with unintended consequences.¹⁸

Conversely, the Jersey Consumer Council has specifically indicated that it believes the Compensation limit should be increased:¹⁹

“The Council believe that, as Jersey's main big income earner remains the finance industry, it is essential that Jersey remains competitive and up to date and, especially, that it is viewed by international investors as competitive and up to date, as perception is everything.

As such, the Council believe that, in order to maintain a continuing level of confidence, the limit should rise to a minimum of the UK's £85,000, if not perhaps even a higher limit, such as £100,000.

The Island states in its press that only the very best banking institutions are granted a licence and, therefore, we believe that to sit and do nothing would send out the wrong signals.”

The Panel acknowledges that further consultation on the level of compensation limit would be useful and that Jersey's current level of £50,000 is in line with the limits set by Guernsey Banking Deposit Compensation Scheme,²⁰ as well as the Isle of Man Depositors' Compensation Scheme.²¹ However, the Panel notes that there has been sufficient opportunity to undertake consultation by either the JRA or Government of Jersey and identifies that schemes of other small jurisdictions such as the Gibraltar Deposit Guarantee Scheme allows for compensation limits to €100,000, more closely aligning to the figure provided for in the United Kingdom.²² It is therefore disappointed that the opportunity to review the compensation limit has not been taken during the significant timeframe undertaken in production of the Draft Law as well as other relevant work undertaken such as the Banking Review related items of 2022, although the Panel understands that this workstream was not formally progressed due to resources constraint.²³

Funding of Compensation

The Minister has confirmed that the scheme operates by paying compensation from the Depositors' Compensation Fund (the “Fund”), with funding sources outlined in the new

¹⁸ [Letter - JBA response Draft Bank \(Recovery and Resolution\) \(Jersey\) Amendment Law 202 - 16 June 2025](#)

¹⁹ [Letter - JCC response Draft Bank \(Recovery and Resolution\) \(Jersey\) Amendment Law 202 - 13 June 2025](#)

²⁰ <https://dcs.gg/about-the-scheme/>

²¹ <https://www.iomfsa.im/consumer-material/isle-of-man-depositors-compensation-scheme-dcs/>

²² <https://gdgb.gi/gdgbquestions.html>

²³ [Transcript - Quarterly Hearing - Minister for External Relations - 10 June 2025](#)

Article 142M(2). The Scheme is also funded through a levy made by banks operating in Jersey. The amount of this levy continues capped within the Draft Law with the maximum largest banks would be eligible to pay being £2 million per annum, with specific levies being:

Levy Cap Based on Eligible Deposits in any 5 year period:

- If 0.3% of a bank's eligible deposits exceeds £10 million, the maximum levy payable is £10 million
- If 0.3% of a bank's eligible deposits is less than £10 million, the levy is capped at the lesser of:
 - £5 million, or
 - 0.3% of eligible deposits

There is also an annual Payment Cap:

- if 0.3% of eligible deposits exceeds £10 million, the maximum annual payment is £2 million
- If 0.3% of eligible deposits is less than £10 million, the maximum annual payment is £1 million

The Panel has noted that the JRA will have facility to provide compensation at under the figure held by the depositor, even if this figure is under the maximum of £50,000. The Minister has confirmed that the determination to make a compensation payment will take into account the funds available within the Fund, as well as the obligation to disburse those funds in accordance with the priorities set out in the law — particularly under new Article 142N Division 5, with new Article 142P allowing for a reduction in payments if there are insufficient funds to meet the maximum entitlement.

The Minister suggests that in such cases, further payments must be made if, at a later time, sufficient funds become available. If the JRA is unable to make the required payment within the five-year period, the depositor's rights to the reduction applied — recognised under new Article 142N(4) — must be restored in accordance with Article 142Y.

The Minister further highlights that should the Fund lack sufficient resources and no further contributions are expected, the remaining compensable rights of eligible depositors will be restored in accordance with the new Article 142Y. The Panel has also queried reasons that may occur for justifying postponing or refusing a payment of depositors' compensation in respect of an eligible deposit under the proposed Article 142S(2)(c) and established in proposed Article 142S(5). The Minister has outlined:²⁴

The power to postpone or refuse the payment of depositors; compensation under Article 142S(2)(c) is intentionally non-prescriptive. This design grants the JRA discretion to determine, in accordance with the guiding principles set out in Article 7 of the amending law, the circumstances in which such action may be necessary.

Examples of such circumstances may include:

²⁴ [Letter - Draft Bank \(Recovery and Resolution\) - 11 June 2025](#)

- *The need to obtain Jersey probate before releasing compensation to an estate;*
- *Known or suspected inaccuracies in the depositor data provided by the failed bank;*
- *Situations where the depositor has already received compensation from another jurisdiction and has not complied with the legal obligation to remit that amount to the Scheme.*

This flexible approach ensures that the URA can act prudently and proportionately, while maintaining the integrity of the compensation process.

The Draft Law proposes to remove the £100 million cap on compensation payouts with the accompanying report identifying that this should enable the JRA to pay 100% compensation in most cases the DCS is activated. The JRA has itself indicated that the removal of the £100 million cap enables the Scheme to be used more effectively for medium sized Jersey banks or in the event of the failure of more than one bank in a 5-year period.²⁵ The JRA has also highlighted:

“Government is also enhancing the Scheme by providing the option for the Authority to vest excess rights into the Scheme. This is a complex subject but in simple terms it would assist the Authority, in certain circumstances, to help ensure eligible depositors receive appropriate preference in the liquidation of an overseas incorporated bank operating in Jersey.”

The Minister has indicated that it is important to note that the value of the States loan available to support the scheme is currently capped at £100 million as set out in the Public Finances (Jersey) Law 2019. The Minister highlights the loan facility set out in the new Article 1420 allows more immediate liquidity to operate the scheme, in particular to make payments of compensation prior to the primary payment date (7 days). The Minister outlines that this is necessary because the Depositors' Compensation Fund is not prefunded and there is some anticipated delay before the initial receipts of depositors' compensation levy.²⁶ The Panel has been informed by the Minister that the existing requirements to consult with the Minister for Treasury and Resources and abide by the requirements of the [Public Finances \(Jersey\) Law 2019](#) will remain in force on adoption of the Draft Law.

The Panel is in agreement with the removal of the £100 million cap of total compensation offered, noting the mixed method of funding, through a States of Jersey Loan and levy on banks, protects public finances whilst providing provision for funding of the Scheme. The Panel notes the continuing provision allowing for discretion of the JRA to administer distribution of the compensation under the limit of contribution and believes this to be a sensible measure that will allow fair distribution of funds no matter the set limit of compensation without undue burden upon banks and public finances.

²⁵ [Letter - JRA response to Amendments Law questions - 11 June 2025](#)

²⁶ [Letter - Draft Bank \(Recovery and Resolution\) - 11 June 2025](#)

Conclusion

The Panel accepts the rationale for the transfer of the functions of the Jersey Bank Depositor Compensation Board to the Jersey Resolution Authority and of the provisions in the proposed Draft Law to establish this.

However, the Panel is disappointed that the opportunity to review and update the limit of compensation has not been undertaken. Although there has been acknowledgement from stakeholders, and the Minister, that the figure of £50,000 should be reviewed or increased there has been indication that this should take place following the transfer of the functions of the DCS Board to the JRA. The Panel notes that this leaves savers in Jersey at a relative disadvantage to their counterparts in other jurisdictions including the UK, Europe and Gibraltar. The Panel has considered further actions on this point, however, has agreed to await the debate on the principles of the Draft Law to help inform any next steps.