

STATES OF JERSEY



DRAFT BANK DEPOSITORS COMPENSATION (JERSEY) LAW 201-

Lodged au Greffe on 20th December 2016
by the Chief Minister

STATES GREFFE



Jersey

DRAFT BANK DEPOSITORS COMPENSATION (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Assistant Chief Minister has made the following statement –

In the view of the Assistant Chief Minister, the provisions of the Draft Bank Depositors Compensation (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator P.F.C. Ozouf**

Assistant Chief Minister

Dated: 16th December 2016

REPORT

Background

The Banking Business (Depositors Compensation) (Jersey) Regulations 2009 (“**2009 Regulations**”) were brought into force in 2009 as a response to the financial crisis. Since then there has been further analysis by the Deposit Compensation Scheme Board, the evolution of international best practice and the forthcoming implementation of a law to create resolution powers to resolve banks. Consequently, improvements have been identified to the 2009 Regulations. It is intended that these will be replaced by the Bank Depositors Compensation (Jersey) Law 201- (“**Draft Law**”).

A number of changes were made in 2011. In 2013 Government consulted with the Jersey Bankers Association concerning further changes to the Deposit Compensation Scheme (“**DCS**”). The changes were mainly to improve the scheme and to learn from international best practice. Following that consultation, Government focused on developing other Laws, including the Draft Bank Recovery and Resolution (Jersey) Law 201- (“**Resolution Law**”, see P.134/2016). Now that the Resolution Law is completed, the proposed changes to the DCS have also been finalised.

Broadly speaking, the DCS is designed to pay compensation to individuals if a bank is wound up in order to ensure financial stability and to act as a safety net to protect people’s essential savings. Under the new international standards, a resolution regime is designed to enable banks to be saved that are systemically important either to the jurisdiction or globally. Systemically important banks are normally medium- or larger-sized banks. Smaller banks are meant to be wound up using normal insolvency proceedings in order to ensure the application of the principle of moral hazard. The DCS would therefore become applicable after a resolution authority has decided to allow a bank to be wound up. It can be seen from this high-level analysis that a resolution regime and a DCS are complementary parts of the financial safety net.

This report focuses on the key areas where there are changes to the DCS.

Payment basis – DCS can pay out more than £100 million in compensation

In summary, the Draft Law will change the DCS so that it can pay out more than £100 million as compensation in certain circumstances. At present, the DCS is limited to paying a maximum of £100 million compensation (and administration costs).

At present, recoveries received by the DCS from the insolvency of the failed bank can be paid over to depositors if compensation had previously been reduced rateably (e.g. because the £100 million was insufficient), but these ‘extra’ payments are not presently classified as ‘compensation’. The Draft Law will change this so that the extra payments (whether funded from recoveries, loans or other sources) are classified as compensation. It also changes the order of payment in respect of recoveries received, so that banks who pay levies to the DCS recover their levies after depositors in respect of recoveries from a liquidator of funds that are over the previous limit of £100 million.

Subject to the bank insolvency achieving a reasonable rate of recovery, this means that the DCS will be able to pay 100% compensation (up to the £50,000 limit per depositor) in almost all circumstances.

The £100 million limit will only apply in respect of the amount of funds that can be raised from compensation levies (on remaining banks) and the States of Jersey shortfall funding. But existing caps on compensation levies are retained. The current

limits are that the DCS Board may not levy a bank/banking group more than 0.3% of its eligible deposits in respect of any bank failure, and compensation levies continue to be capped at £10 million and £5 million over 5 years.

Worked example of application of old Law –

- Bank fails – £150 million compensation due
- Liquidity Funding by States – £100 million
- DCS pays out £100 million in compensation i.e. DCS pays £36,667 compensation to each depositor (compensation reduced by a 1/3)
- DCS takes rights of depositors up to £50k
- Banks pay levies over time of £100 million
- Levies and recoveries used to pay back States £100 million
- Recoveries used to pay back banks levies up to £100 million
- Recoveries used to pay remaining amount due to depositors.

Now –

- Bank fails – £150 million compensation due
- Liquidity Funding by States – £100 million
- DCS speaks to liquidator that confirms certain that can recover £50 million liquid assets in jurisdiction and pay to DCS
- DCS takes £50 million from liquidator and pays out £150 million in compensation.
- Banks pay levies over time of £100 million
- Levies used to pay back States £100 million
- Recoveries used to pay back banks levies.

The difference shows clearly that depositors are placed in a better position than before. The move to being able to pay out a larger amount of compensation has a positive impact on consumers and a negative impact on the banks. The order of payments out of the fund mean that where compensation is over £100 million, the depositors will be paid back their full £50k before the banks recover their levy. The new system is fairer to depositors and is accordance with international standards.

Straight-through payout

Europe has introduced a system known as Straight-Through Payout. This will be introduced for the circumstances when the bank data is demonstrated to be accurate enough to enable such payments to be made without the extra information obtained through application forms being submitted. This will allow the DCS to pay compensation without an application form being submitted (based only on the deposit data of the failed bank), in appropriate cases.

It is intended that Straight-Through Payout will be limited to individuals and charities (registered with the Association of Jersey Charities) as no further information or evidence is required in these cases.

Straight-Through Payout will have a positive effect for depositors who can be paid quicker than a process that involves waiting for claim forms and reviewing each application by depositors. This should increase the confidence of depositors who bank in Jersey.

Time periods for compensation

Previously compensation needed to be paid within 3 months. The change to Straight-Through Payout means that the time taken to pay compensation can be reduced. Payment of compensation is required within 7 working days to meet the international standard as set out in the revised International Association of Deposit Insurers' Core Principles. The DCS Board will have up to £100 million funds available in compensation (from the States of Jersey liquidity loan), so if the bank data is of sufficient quality, then payments can begin quickly and payment can be made in 7 working days.

However, there are a number of caveats. The timescales for the DCS Board to pay are being given more flexibility, in part by amending the position so that compensation is only 'due' if the DCS has sufficient funds to pay it. If the DCS does not have sufficient funds, for example, if a failure was more than £100 million, then compensation can be pro-rated and paid over time. There are also additional clauses permitting delay where the bank data cannot be extracted in a form that can be used to make Straight-Through Payout or where the bank data is of insufficient quality to enable the DCS Board to rely on it in making compensation payments. Taken as a whole, this change benefits depositors by reducing the time periods for them to be paid.

Deposit Preference

Deposit preference is already part of Jersey law – the change was made in 2012 – it was adopted by the States in [P.79/2012 – Bankruptcy \(Désastre\) \(Amendment No. 6\) \(Jersey\) Law 201-](#).

Further changes are being made to depositor preference in the Resolution Law. That Law changes the position so that overseas deposit compensation schemes where rights have been vested in respect of deposits placed in overseas branches of Jersey subsidiaries rank in equal priority to the Jersey DCS. This reflects agreement as to best practice, reached with Guernsey and the Isle of Man in 2013. Deposit priority is being adopted internationally in order to maximise recoveries from a failed bank.

Trigger mechanism

The trigger mechanism for the DCS is amended, giving the DCS Board the flexibility to activate the scheme if a bank is insolvent or is likely to be unable to pay creditors, i.e. no winding-up order or declaration of désastre has been made yet by a court. Extra flexibility is also introduced by enabling the DCS Board not to commence the process if a resolution procedure has started or is likely to start within a reasonable time.

As a matter of practice, the Board is unlikely to invoke such a power without a court order in Jersey or overseas. The extra flexibility will enable the Board to activate the scheme in cases where there is a foreign insolvency subject to a foreign court order, but where the foreign processes or rules are perhaps different to Jersey bankruptcy processes or rules.

However, the Board can decide not to activate the scheme even if the bank is bankrupt if there is an alternative that would be better for depositors (e.g. a foreign suspensory or resolution procedure).

Automatic subrogation/vesting of depositors' rights in the Board and re-vesting

Automatic subrogation is introduced so that depositors' rights to their eligible deposits (i.e. up to £50,000) will automatically vest in the DCS Board on the activation of the DCS. This avoids the need for manual assignment by application forms and means that the rights will benefit from priority in the bank insolvency. The DCS Board is also able to vest depositors' rights over £50,000 in the DCS Board for reasons including

that it would counteract any prejudice caused by the application of foreign law. The DCS Board will be able to assign depositor's rights back to depositors on request.

In the unlikely event that the insolvency procedure is still proceeding 5 years after the bank failure, the rights will automatically re-vest in depositors so that the DCS can be 'wound up' and not run indefinitely.

The Board also has the right to require manual assignment by depositors in order to deal with conflicts of law issues.

Jersey banking groups

The Draft Law states that the Minister may group banks for the purpose of calculating the administration levy only. This changes the current position so that banks are no longer grouped for the purposes of declaring a default and the payment of compensation. This removes the complication that banks within a group may be subject to different resolution processes, which wouldn't work from a practical perspective if the Draft Law treated them all the same.

The practical consequence of this change is that the amount of compensation to be paid could increase as a result of this change, as the limit of £50,000 per depositor per bank will replace the limit of £50,000 per banking group. However, most depositors will not have the option of placing deposits within different entities within a banking group, so the effect in practice is not expected to be material.

Deposit data format

The DCS Board has already stated a 'preferred deposit data format' in which banks can provide deposit data to the DCS Board in a form that is readily compatible with the DCS Board's IT systems. This 'preferred' format was devised with the input of a cross-section of Jersey banks.

The Draft Law allows the DCS Board to designate a preferred format as a matter of law. The power to mandate a deposit data format is common in many other jurisdictions, which will mean that banks must readily be able to provide their deposit data to the DCS Board to check that it complies with the format.

Annual reporting

Mirroring the informal status quo where banks give a statement of eligible deposits to the JFSC, an annual reporting requirement is introduced, requiring banks to inform the DCS Board of the amount of eligible deposits that they hold on an annual basis. This will allow the DCS Board to periodically assess the sufficiency of coverage and, as these historic figures can be used in default if fresh figures are not provided quickly following activation of the DCS, it ensures that calculation of compensation levies will not be delayed.

Banks will have to give the same data as they currently have to give to the JFSC. One option that may be adopted is for the JFSC to act as the agent of the Board and pass information that it already collects in order to avoid duplication.

Board powers

The DCS Board is given powers mirroring those of the Jersey Financial Services Commission (JFSC) under Article 26 BBL, relating to obtaining information from banks. The DCS Board need such powers in order to properly carry out their functions.

In particular, the DCS Board may wish to examine an ailing bank's deposit data prior to the DCS being triggered, in order to ensure that this can be readily uploaded onto

the DCS Board's IT systems. Powers are exercisable on written notice to those affected.

Taken as a whole, it is believed that the changes set out in the Draft Law materially strengthen the DCS in Jersey improving financial stability and safety for depositors.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this draft Law, as any costs will be met by expenses being charged to the banking industry.

Human Rights

The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

**Human Rights Notes on the Draft Bank Depositors Compensation
(Jersey) Law 201-**

1. The rights issues that need to be considered are –
 - (a) Effect of the legislation on creditors, in particular by the compulsory assignment of their claims against relevant banks to the Jersey Bank Depositors Compensation Board (“the Board”); and
 - (b) The raising of money direct from other banks.

Article 1, Protocol 1 ECHR (“A1P1”)

2. Article 1, Protocol 1 of the ECHR provides that –

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”
3. There will be no doubt that any interference in creditor rights and the raising of levies on banks will be “by law”: all relevant measures will be conducted under the detailed provisions of the Law, and subject to the supervision by the Courts in terms of the proper execution of that Law. Further, where property rights are concerned, legislatures have a considerable margin of appreciation in determining the existence of a problem of general public concern and in implementing measures designed to meet it.
4. In terms of proportionality, paragraph 2 of A1P1 refers to measures that the state “*deems necessary to control the use of property in accordance with the general interest*”. This means that the measure has to be proportionate, i.e. (a) is done for a legitimate aim; (b) the measure is rationally connected to the aim; (c) the aim could not be achieved in a less intrusive manner; and (d) is proportionate in the general sense of not using a “sledgehammer to crack a nut”. In reality, given the breadth of the margin of appreciation accorded to states in respect of interference with property for the general good, this tends to turn on a less structured question of whether the legislation strikes a “fair balance”, see *Sporrong and Lonnroth v Sweden* (1983) 5 EHRR 35. It must be noted that the Depositors Compensation Scheme exists in the context of the regulation of bank failure and its effect on ordinary deposit holders. It exists as a measure to protect deposit holders, and, by doing so, help maintain public confidence in the banking sector so as to reduce the risk of banks collapsing. Given that the economic ramifications of banking collapse plainly justifies application of the “precautionary principle” (i.e. the priority is that any risk should be avoided if possible), a Court would give a very broad margin of discretion to the judgement of the legislature as to where the balance should be struck.

A. **Effect on creditors**

5. AIP1 is engaged by the draft Law because the proprietary rights of creditors will be interfered with when certain actions are taken under the draft Law.
6. Generally speaking, there are 2 broad scenarios envisaged by the draft Law under which rights will be subrogated in favour of the Board –
 - (a) The first is the ‘Jersey scenario’. That scenario is where a Jersey bank is wound up and the liquidator recognises: (i) Jersey bankruptcy rules; and (ii) the applicable statutory provisions in the draft Law as to the automatic assignment of depositor’s rights to the Board (in this case it will be the assignment of the compensatable element of a deposit, i.e. up to £50,000).
 - (b) The second can be labelled the ‘foreign bank scenario’. In that scenario, an overseas bank with a Jersey branch fails. The liquidator: (i) recognises the applicable statutory provisions in the new Law as to the automatic assignment of depositors’ rights, but (ii) does not recognise Jersey bankruptcy rules.

Scheme as a system of insolvency priority

7. The automatic subrogation of rights by the Board engages AIP1, which guarantees the right to property. These provisions are found in Articles 38, 39 and 40 of the draft Law. The legislation creates a system of priority. It fully compensates account holders up to £50,000. This may in part be funded by the Scheme being compensated out of the rights of deposit holders insofar as they have accounts greater than £50,000.
8. In other words, the means to prioritise accounts up to £50,000 may involve giving what is often now called a “haircut” to those with accounts above £50,000. As will be seen, this is no different to any system of priority within an insolvency. This is why the rights of deposit holders up to £50,000 are called *compensatable* rights, and those above £50,000 (not being compensatable) are called *excess* rights.

Subrogation as engaging AIP1

9. The subrogation of depositors’ rights engages a ‘*possession*’ for the purposes of AIP1, i.e. the contractual claim to a deposit. In terms of the interference with the AIP1 right, the automatic assignment of rights to the Board might be cast as a control of use,¹ although it is perhaps more akin to a deprivation of a possession, in that the Scheme will deprive depositors of the legal ownership of rights in a deposit and, in the foreign bank scenario, will consolidate and re-allocate rights². In either case, however, for the interference with the AIP1 right to be justified, it must be shown to be: (1) by law; and (2) proportionate. The concepts were described above.

¹ In that depositors are temporarily deprived of the use of their rights in a deposit, recognising that the: Human Rights Practice R.10: July 2005, para. 15.023; *Handyside v United Kingdom* (1976) 1 EHRR 737 (para. 62).

² Human Rights Practice R.13: February 2007, para. 15.025; *Piron v France* (2002) 34 EHRR 14

10. Generally speaking, the automatic subrogation of the *compensatable* element of a deposit is considered compatible with the ECHR, in that the automatic subrogation is part of a system under which their rights to that *compensatable* element are enhanced by the rights under the Scheme. In short, their ability to get their money back is greater as against queuing during a run on a bank, or claiming in a liquidation.
11. The automatic subrogation of the *excess* element of a deposit in a “Jersey scenario” is also compatible with the ECHR. Although in this case, the depositor might effectively suffer a haircut, this will be in keeping with the priority given to deposit holders under the Law.
12. It is the position of those with *excess* rights in a “foreign bank scenario” which ostensibly creates a difficulty, as such an individual may be worse-off than they would have been had they received a dividend direct from a foreign liquidator. This is because their excess rights may have been given a “haircut” in favour of *compensatable* rights. The position is this –
 - (a) The States of Jersey will advance liquidity funding to the Board to enable it to pay compensation to depositors.
 - (b) Using that funding, the Board will pay each eligible depositor up to £50,000 as compensation, depending on the size of the relevant deposit.
 - (c) In principle, all the rights of those depositors (relating to both the *compensatable* element and any *excess*) in their deposit in the failed bank will have been assigned to the Board and pooled.
 - (d) The liquidator pays out a proportion of recovered funds to the Board representing depositors’ recoveries from the liquidation.
 - (e) The Board uses those recovered funds to repay the loan from the States of Jersey.
 - (f) The Board then re-assigns pooled excess rights back to depositors, making any necessary adjustments to re-assigned rights depending on the amount outstanding to each depositor, e.g. using portions of ‘smaller’ depositors excess rights to settle up outstanding excess rights owing to ‘larger’ depositors.
13. For the purposes of this human rights assessment, the following aspects of the Scheme are considered critical –
 - (a) All the rights of each depositor in a bank deposit will be assigned automatically to the Board and pooled.
 - (b) Depositors will not be given the choice of whether to participate in the Scheme, i.e. there will be no ‘opt out’.
 - (c) Recoveries, flowing from rights assigned to the Board, will be used by the Board to repay funding received from the States of Jersey.
 - (d) Rights are re-assigned by the Board, in some cases with adjustment meaning ‘larger’ depositors may not receive exactly the same rights in return.
 - (e) The same ‘monetary value’ of excess rights taken will ultimately be assigned by the Board back to the depositor.

Application of AIP1 to facts

14. Despite the complexities of the legislation, the subrogation provisions (whether in domestic or foreign liquidation scenarios) are designed to achieve the same legitimate. The aim is to achieve a priority for depositors so that accounts under £50,000 receive greater protection. Enforcing that priority is more complex in the case of foreign insolvencies, but the “legitimate aim” of that part of the legislation is the same as with purely Jersey scenarios. The proportionality of the measure is thus dependent on –
- (a) Whether the measure is rationality connected with the aim. The aim is to create a compensation scheme that applies equally whether the Jersey Bank operates as a Jersey registered company or a branch of a non-Jersey Bank. This would not be achieved unless the priority rules applied equally to both scenarios.
 - (b) Whether a less rights intrusive alternative can be found. No such system could exist unless it failed to deliver the objective. In enforcing priorities in insolvency scenarios, it is an essential part to gather together the money that is to be paid out. A system of priority requires an orderly paying out of that money.
 - (c) There is no suggestion that any part of the system is a “sledgehammer to crack a nut”. This will be the case where a measure unavoidably creates unacceptably large amounts of collateral damage, e.g. a non-discriminatory measure against forced marriage that restricts rights far beyond cases where there is an appreciable risk of the harm being addressed, see *R (Quila) v Secretary of State for the Home Department* [2012] 1 AC 621. The measures are closely linked to the aim throughout – there is no group of account holders that are “collateral damage”. Their rights insofar as they are damaged is because of a system of priority within what is essentially an insolvency scenario.
15. Ultimately, the policy of this Law in this regard is the same as the EU’s Banking Recovery and Resolution Regulations (2014/59). These Regulations endorse the concept of prioritising rights of depositors up to a particular level at the expense of those holding greater deposits. We find, at Recital 111 –
- “While covered deposits are protected from losses in resolution, other eligible deposits are potentially available for loss absorbency purposes. In order to provide a certain level of protection for natural persons and micro, small and medium-sized enterprises holding eligible deposits above the level of covered deposits, such deposits should have a higher priority ranking over the claims of ordinary unsecured, non-preferred creditors under the national law governing normal insolvency proceedings. The claim of the deposit guarantee scheme should have an even higher ranking under such national law than the aforementioned categories of eligible deposits. Harmonisation of national insolvency law in that area is necessary in order to minimise exposure of the resolution funds of Member States under the no creditor worse off principle as specified in this Directive.”*
- This is important: “covered deposits” are prioritised. Other deposits may be sacrificed, i.e. they are “available for loss absorbency purposes.”

16. What are “covered deposits”? Article 2 says –
 “(94) ‘covered deposits’ means covered deposits as defined in point (5) of Article 2(1) of Directive 2014/49/EU;...”
 Following the trail to Article 2(1) of Directive 2014/49, we find –
 “(5) ‘covered deposits’ means the part of eligible deposits that does not exceed the coverage level laid down in Article 6;...”
 At Article 6, we find –
 “1. Member States shall ensure that the coverage level for the aggregate deposits of each depositor is EUR 100,000 in the event of deposits being unavailable.”
 So, priority goes to deposits up to €100,000.
17. We see the consequence of this at Article 108 of Regulation 2014/59 –
 “(a) the following have the same priority ranking which is higher than the ranking provided for the claims of ordinary unsecured, non-preferred creditors:
 (i) that part of eligible deposits from natural persons and micro, small and medium-sized enterprises which exceeds the coverage level provided for in Article 6 of Directive 2014/49/EU;...”
 Deposits above the €100,000 level have a lower priority.
18. Under the approach of the European Court of Human Rights in *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Sirketi v Ireland* (2006) 42 EHRR 1, there is a “presumption” that “the protection of fundamental rights by EC law could be considered ‘equivalent’ to that of the Convention system”.
19. It is thus quite possible in insolvency or equivalent provisions to give a priority to depositors up to an amount. This compensation scheme works no differently – and it makes no difference that there are complications in provisions required to deal with extra-territorial complications. The provisions of Articles 38 to 40 of the draft Law simply create personal obligations on depositors as regards the handling of money that could be received from liquidators, as opposed to being able to control the flow of money from the liquidator more directly. But this does not change the analysis of the interference with possessions.
- B. Effect on banks**
20. The draft Law provides insolvency procedures in respect of banks. This does not create any human rights issues. Such procedures invariably affect the property of the insolvent bank concerned, although, as the relevant bank is *ex hypothesi* insolvent, insolvency procedures are generally better seen in the terms set out above, i.e. interference with creditor rights.
21. It is worth briefly noting that the Law affects property rights of other banks, namely in terms of the administrative levy and further contributions (see Part 4 of the draft Law). The rules for setting such levies and contributions are clearly set out and so are in accordance with law. They are plainly justified within the meaning of A1P1 set out above, being in essence a tax on banking institutions to contribute to a system designed to promote stability within the banking sector.

C. Conclusion

22. Based on the reasoning above, it can be concluded that the interferences with property will be proportionate.
23. **Therefore the draft Law is compatible with Article 1, Protocol 1 ECHR.**

Explanatory Note

This Law replaces the Banking Business (Depositors Compensation) (Jersey) Regulations 2009 (the “current DCS Regulations”). It also replaces the Banking (Depositors Compensation Supplementary Provisions) (Jersey) Regulations 2012 (the “triennial offence Regulations”), which expired in 2015, and Article 37 of the Banking Business (Jersey) Law 1991 (the “Banking Business Law”), under which the current DCS Regulations are made, to bring all the relevant provisions into one place.

The new Law makes several changes to the scheme as it stands under the current DCS Regulations. It allows the Board to declare insolvent banks in default as well as bankrupt banks; provides for “straight-through pay-outs” of compensation without requiring an application by the depositor; requires banks to submit annual returns to the Board; makes express provision as to multiple defaults, and as to the treatment of loans from the States; allows conditions to be imposed on compensation payments in cases involving foreign law; provides for the assignment of depositors’ rights to the Board to be automatic where those rights are to the first £50,000 of a deposit; allows the Board to decide that rights should also be assigned to the excess over that amount, and caters for re-assignment of rights; sets out the order of priority and timing of payments out of a compensation fund; provides for the winding up and completion of a compensation exercise; and allows the Board to require banks to issue standard statements about the scheme, and to keep relevant data in a particular format.

Part 1 provides for interpretation of the Law.

Article 1 contains definitions, based on those in Regulation 1 of the current DCS Regulations, adapted for the purposes of this Law. In particular it now flags the new concept of “completion of the compensation exercise” defined in *Article 44(1)*, and a unified concept of “maximum amount of compensation” defined in *Article 22*. The definition “valid application” is not reproduced from Regulation 2 of the current DCS Regulations, because the new system of “straight-through pay-outs” in *Article 19* means that applications, as the exception to the general rule, are now fully covered in *Article 20*.

Article 2 provides for the determination of money standing to the credit of an eligible deposit. This Article is based on Regulation 3 of the current DCS Regulations, but now adds provision for the Board to use exchange rates other than the opening middle market exchange rate.

Article 3 makes provision in respect of joint accounts, unchanged from that in Regulation 4 of the current DCS Regulations.

Article 4 defines “eligible depositor” and clarifies “eligible deposit”, unchanged from Regulation 5 of the current DCS Regulations, but updating the reference to a charity.

Article 5 makes provision for banking groups, adapted from Regulation 6 of the current DCS Regulations. The Board (rather than the Minister) can group (and re-group) banks, but can only do so for the purpose of the annual administration levy (not for the compensation levy or for the payment of compensation) and of giving notices. Alternative provision as to grouping may be made by Regulations.

Article 6 provides for extension of periods of 5 years. This Article replaces Regulation 7 of the current DCS Regulations, to allow the Board (with the Minister’s consent) to extend any period of 5 years mentioned in this Law.

Part 2 provides for the Jersey Bank Depositors Compensation Board.

Article 7 continues in existence the Jersey Bank Depositors Compensation Board (the “Board” established by the current DCS Regulations).

Article 8 provides for the general functions of the Board, expanding on those in Regulation 8A of the current DCS Regulations by adding references to obtaining and sharing information, to timeliness in payment of compensation, to enforcement of the obligations of banks, and to new objectives of protecting the interests of depositors and contributing to financial stability. The functions can be amended by Regulations. The Board can delegate its functions. There is no equivalent of the provision in Regulation 8A of the current DCS Regulations for the Minister to exercise the Board’s functions on their behalf, so the Board will permanently assume all of its functions on the commencement of this Law to any extent that it has not done so already.

Article 9 provides for the independence of the Board, reproducing Regulation 9 of the current DCS Regulations.

Article 10 makes provision for the constitution of the Board, based on Regulation 10 of the current DCS Regulations (3 members, who are not also States members). New provision is made for members to serve as representatives of the Minister, or as representatives of other interested groups, or as independent members. But those acting as representatives cannot form the majority of those voting, and the Board as a whole remains independent. The members are appointed by the Minister, rather than by the States, and the Article makes no reference to the role of the Appointments Commission in these appointments, but only because that role is now comprehensively dealt with instead through the amended Employment of States of Jersey Employees (Jersey) Law 2005.

Article 11 provides for the terms and conditions of appointment of members of the Board, unchanged from Regulation 11 of the current DCS Regulations.

Article 12 provides for the procedures of the Board, expanding on Regulation 12 of the current DCS Regulations. The quorum is changed to 2 members. The Minister can still determine the procedures of the Board, but no longer has to present that to the States. The Minister is given power to give guidance and general directions to the Board on its policies and the manner in which it carries out its functions, but can only do so in the public interest and after consulting the Board, and subject to the independence of the Board.

Article 13 limits liability of those acting under the Law, in line with Regulation 13 of the current DCS Regulations.

Article 14 provides for the budget, accounts and report of the Board. This Article is based on Regulation 14 of the current DCS Regulations, but adds a duty to adopt annual budgets. It makes no reference to the powers of the Comptroller and Auditor General, but only because those powers are now comprehensively dealt with through the Comptroller and Auditor General (Jersey) Law 2014 instead.

Part 3 provides for defaults and compensation.

Article 15 requires the Board to determine whether to declare a bank to be in default, and if so to declare the “relevant date”. It is significantly adapted from Regulation 15 of the current DCS Regulations. The Board does not have to declare a default, triggering the depositors compensation scheme, if it considers that a resolution procedure is under way or about to start and that it is appropriate for that procedure to operate without the depositors compensation scheme (and the Board can suspend the scheme if a resolution procedure starts later). The Board can trigger the scheme if the bank is merely insolvent, without being bankrupt. The Minister is given power to amend the Article to make alternative provision as to declaring a bank to be in default.

Article 16 requires the Board to take preliminary steps in respect of a default, adapted from those in Regulation 16 of the current DCS Regulations. The time for the solvent banks, and the insolvent bank (or its liquidator), to respond to the notice seeking information is reduced to 2 working days. The information sought will update statements of relevant holdings under *Article 30*, and also reflects the new power in *Article 47* for the Board to prescribe the format in which information must be held ready to be sent. There are offences of failing, without reasonable cause, to comply with the notices. The offences are based on those in Regulation 3(3) and (5) of the triennial offence Regulations, and carry the same maximum penalty of an unlimited fine (see also notes below on *Article 49*, for offences of making false statements, which will apply to responses to notices).

Article 17 requires the Board to establish a compensation fund in relation to each default. It adapts the equivalent provision in Regulation 17 of the current DCS Regulations, while tightening the rules on what must be paid into and can be paid out of a compensation fund. Once money is in a compensation fund, it can be paid out for any of the allowable purposes irrespective of its source (except where specific provision is made to the contrary).

Article 18 requires the Board to pay compensation by the primary payment date, which is 7 working days after the Board has the necessary information from the bank that is in default (unless the Board and the Minister are satisfied that a later date is appropriate). This Article replaces the system of interim and final payments in Regulations 18 and 19 of the current DCS Regulations. If the Board is not satisfied that it will have received enough funds by the completion of the exercise to meet all its liabilities as well as paying full compensation, it can pay as much as is prudent by the primary payment date and then pay the rest in instalments as it becomes satisfied as to the availability of further funds (see also notes below on *Article 42(3)* as to proportional reductions in total compensation payments if insufficient funds are available in the end).

Article 19 provides for straight-through pay-outs (for which there is no equivalent provision in the current DCS Regulations). The Board must pay compensation, using the information available to it, without depositors having to make applications, unless the Board publishes a notice requiring applications from some or all depositors (on the basis that it will need information or evidence that it does not already have).

Article 20 provides for the applications that depositors must make for any compensation that is not payable by way of straight-through pay-out. It is based on Regulations 2 and 21 of the current DCS Regulations.

Article 21 provides for the postponement of and refusal of payment of compensation. It expands on the provision made in Regulation 20 of the current DCS Regulations. It adds a power to refuse payment in appropriate cases, as opposed to merely postponing it. It also adds grounds for delay or postponement, in addition to those related to money laundering, proceeds of crime and terrorism, to cover also other cases where a bank could refuse to pay out the deposit, where an account is dormant, where there is a dispute over the deposit (or the depositor is dead or under a disability), or where any other reason would justify the postponement or refusal in the circumstances.

Article 22 provides for the maximum amount of compensation, expanding on what is in Regulation 22 of the current DCS Regulations. The limit per deposit remains at £50,000. Rights such as set-offs and counter-claims are to be disregarded. The special provision for Community Savings Ltd is spelt out more fully and the Minister is given power to amend it by Order.

Article 23 provides for accounting for entitlements under overseas depositors compensation schemes, mirroring Regulation 23 of the current DCS Regulations.

Article 24 provides for reductions in the amount of compensation payable where the depositor receives payment from an overseas scheme, from an insurer or from the bank or its liquidator. This Article is based on Regulation 24 of the current DCS Regulations, altered so that the Board must use its best endeavours to reduce the compensation. Failure to notify the Board of receipt of such a payment is an offence, carrying imprisonment for up to 2 years, an unlimited fine or both, as in Regulation 3(7) of the triennial offence Regulations.

Part 4 provides for levies on banks.

Article 25 provides for the annual administration levy, based on Regulation 25 of the current DCS Regulations subject to the following changes. The Board is expressly allowed to use the levy to raise a reserve. A bank is only liable if it held an eligible deposit in some part of the year. The Board is given power to waive or reduce liability of individual banks. The Minister is given power to amend the definition of “registration year”.

Article 26 provides for the compensation levy, based on Regulation 25A of the current DCS Regulations.

Article 27 provides for notice of levies to be given, based on Regulation 25B of the current DCS Regulations, but with an additional power for the Board to require a bank to pay an additional levy where an underpayment would otherwise result from the bank’s contravention of the requirement to provide the statement on which levies are based.

Article 28 requires the amount of the annual administration levy to be divided amongst the liable banks, as in Regulation 25C of the current DCS Regulations.

Article 29 sets the total amount that the Board must raise in compensation levies. This Article follows Regulation 26 of the current DCS Regulations, but adds provision that the levies should ensure repayment of any States loan.

Article 30 makes new provision (not based on the current DCS Regulations) requiring banks to send annual returns to the Board with information relevant to planning for the scheme. The return must be sent within 28 days of the end of each calendar year (not just when there is a default), and can be updated by the bank if its relevant holding falls by at least 10% before the next return is due. The Minister can make an Order to amend the provision as to the contents, form or sending of a return. It is an offence carrying an unlimited fine (not reflected in triennial offence Regulations, because this is a new provision) to fail, without reasonable cause, to comply with the requirements.

Article 31 provides for the amount of compensation levy to be paid by each bank to reflect its share of the total eligible deposits held in the island. This Article is based on Regulation 27 of the current DCS Regulations, adapted to take account of the definition of relevant holdings in *Article 16* and the new provisions on information as to those holdings.

Article 32 limits the amount the Board may raise by way of compensation levy. This Article is expanded from Regulation 28 of the current DCS Regulations, which limited the amount the Board could expend. The cap is still set at £100 million over any period of 5 years (but now clarified to ensure that applies to any period, not just one starting on a relevant date – see also *Article 33(1)(a)(ii)*, preventing the Board from raising a levy over 5 years after a default). Express provision is added to give the Board power to cater for cases where a second bank is declared in default within 5 years after another, while keeping to the £100 million cap (which could otherwise

bite disproportionately on depositors of the second bank), including power to make adjustments by transferring amounts between the respective compensation funds.

Article 33 limits the liability of banks to pay compensation levy. This Article recasts Regulation 29 of the current DCS Regulations, keeping the caps at the same levels, but clarifying the relationship between them. A bank cannot be made to pay, in relation to one default, more than 0.3% of the total amount of its eligible deposits, or to pay in respect of a period more than 5 years after the default. Irrespective of the number of defaults, a bank cannot be made to pay more than £2 million in any 12 month period. Coupled with the limit of 5 years after a default, that means a bank cannot be made to pay more than £10 million in total for one default (that figure is now not expressly separately stated, as it flows necessarily from the other provisions). If 0.3% of the bank's eligible would come to less than £10 million, the £2 million yearly limit is still reduced to £1 million (and accordingly the limit over 5 years comes to £5 million instead of £10 million).

Article 34 provides for the treatment of loans from the States. This Article replaces Regulation 30 of the current DCS Regulations, which would require the States to make up a shortfall between the total raised in compensation levies and the total to be spent in compensation and default-related administrative costs. Under that provision the States contribution would effectively be capped by the limit on the amount the Board could expend, and the States would look to be repaid via Regulation 32 of the current DCS Regulations (particularly as a result of recoveries in the bankruptcy that flow to the Board under subrogation). The States could also loan money to the Board, but no express provision is made for that by the current DCS Regulations.

This replacement Article takes account of the effects of other changes in this Law, and particularly of the new *Articles 42 to 44*. It does not oblige the States to make up any shortfall, but it does instead make express provision for the treatment of any loan that the States does make to the Board. The loan must be used to pay compensation and default-related administrative costs, and the compensation levy must be used first to repay the loan (unless the Minister agrees that some or all of it can be used to pay compensation instead). The maximum amount that the States can lend is prescribed separately by the Public Finances (Depositors Compensation) (Jersey) Regulations 2009.

Part 5 provides for liquidators, foreign law and the assignment of rights.

Article 35 provides for the duties of liquidators in relation to the Board, by reproducing the effect of the provisions currently in Article 37(6) and (7) of the Banking Business Law.

Article 36 makes new provision for the Board to impose conditions on payment of compensation to counter-act prejudice caused by the operation of a foreign law in relation to a default. The power can be used particularly where the operation of the foreign law would otherwise frustrate the order of priority for payments under Jersey law. The conditions can include a requirement for the depositor to take steps that will have the effect under the foreign law of avoiding or limiting the prejudice caused.

Article 37 provides definitions for the provisions on assignment in *Articles 38 to 41* (which replace Regulations 33 and 34 of the current DCS Regulations). In particular a "relevant right" is the right of an eligible depositor to the whole of the deposit, while a "compensatable right" is the right to the first £50,000 of the deposit on which compensation can be paid, and an "excess right" is the right to the amount of the deposit that is any excess over that £50,000.

Article 38 provides for the assignment of compensatable rights. Under the current DCS Regulations the rights of the depositor to the deposit only vest in the Board if the depositor agrees to that (but the Board must not pay the compensation until the depositor does agree). Under this Law there will instead be automatic assignment of compensatable rights. Under the current DCS Regulations the subrogation applies in respect of the whole of the deposit, even if it is over £50,000, leaving the Board to collect and pay over to the depositor any excess (but the Board has no priority in relation to the excess in the bankruptcy proceedings). Under this Article the compensatable rights are automatically assigned to the Board as from the relevant date, unless the Board chooses, in the notice declaring the default, to specify otherwise in relation to some or all of the deposits (in which case the depositor concerned will still need to agree to assignment in order to receive the compensation). Where there is automatic assignment the depositors must assist the Board and pay over to the Board any amounts they may receive (just as they must where they agree to assignment when it is not automatic).

Article 39 provides for the assignment of excess rights to the Board (and imposes duties on depositors to assist the Board in that), but only if the Board decides to trigger the assignment (and not automatically as with compensatable rights). The Board may do so to counter-act prejudice caused by foreign law (see *Article 36*), to preserve the effect of the order of priority in Jersey law, to achieve more timely payment of compensation or for any other reason related to the better performance of the Board's functions. Money recovered under these assigned rights is to be paid into the compensation fund, like money recovered under compensatable rights, from where it will be used to pay compensation. However, this is subject to the effects of *Articles 42(1)(d)* and *43(7)* (see below) under which excess rights are accounted for in the winding up of the compensation exercise (or sooner).

Article 40 makes general provision on assignment, both for compensatable and excess rights. In particular rights can be re-assigned, and re-assigned rights can be subordinated to those retained by the Board.

Article 41 provides for the Board as to be treated as a creditor in respect of assigned rights, reflecting Regulation 34 of the current DCS Regulations.

Part 6 provides for the priority of payments and the completion of a compensation exercise.

Article 42 makes new provision for the order of priority and timing of payments out of a compensation fund, replacing and expanding on Regulations 31 and 32 of the current DCS Regulations. The order of priority is (after adjustments under *Article 32(6)(b)* between funds) default-related administrative costs, compensation payments, payments reflecting assigned excess rights, repayment of any States loan, and lastly repayment to the banks of any excess compensation levy. However, the Board can make payments at different times, as long as the order of priority will have been respected by the end.

Article 43 makes new provision for the winding up of a compensation exercise within 5 years. The Board must be satisfied that it has paid all default-related administrative costs and repaid any States loan (or will do so from future receipts of compensation levy), and that it is unlikely to receive further payments. It must then pay any remaining compensation (subject to any proportional reduction), make any remaining payments to depositors who had excess rights, and repay levies to banks (if any States loan has been repaid). If the Board still holds assigned rights that have not been realized, it must assign them on in an order reflecting the order for payments out of the compensation fund. If excess rights were assigned, the Board must ensure that those

depositors receive (as soon as will not prejudice the scheme) payments and re-assignments matching in total the rights that were assigned.

Article 44 makes new provision for the completion of a compensation exercise once the winding up is finished. The Board must prepare final audited accounts and a report for the exercise and provide them to the Minister, who must lay them before the States as soon as practicable.

Part 7 makes provision in relation to information.

Article 45 provides for the general duty of the Board in obtaining and sharing timely, accurate, comprehensive and necessary information under its particular powers and duties.

Article 46 makes new provision for the Board to publish standard statements about the scheme that are to be used by banks in advertisements and other material. The States may amend this Article by Regulations.

Article 47 makes new provision for the format of and access to information held by banks. The Board is given the same powers to demand information as the Jersey Financial Services Commission has under Article 26 of the Banking Business Law, including information as to relevant holdings. The Board can also designate a mandatory format in which banks must hold relevant data, and can put a bank's data into that format when exercising powers to access the data.

Article 48 makes the same provision as to restricted information (and the Board) as is made by Articles 42 to 45 of the Banking Business Law (in relation to the Jersey Financial Services Commission).

Article 49 provides for other offences related to information. It applies Article 22(1) of the Banking Business Law in relation to providing false information to the Board, and creates an offence of an applicant knowingly failing to give information to the Board that might reduce the amount of compensation. These offences replace those in Regulation 3(2), (4) and (6) of the triennial offence Regulations, and carry the same penalty of an unlimited fine, imprisonment for 2 years or both.

Part 8 makes miscellaneous and final provisions.

Article 50 makes provision for appeals, adapting Regulation 35 of the current DCS Regulations.

Article 51 provides for criminal responsibility of directors and others, adapted from Regulation 4 of the triennial offence Regulations, Article 52 of the Banking Business Law and other more recent versions of such provisions.

Article 52 repeals the current DCS Regulations and Article 37 of the Banking Business Law (under which the current DCS Regulations were made), as they are all now replaced by this Law. The triennial offence Regulations are not repealed only because, as triennials, they ceased to have effect in 2015 and were not renewed.

Article 53 makes a consequential amendment to the Bankruptcy (Netting, Contractual Subordination and Non-Petition Provisions) (Jersey) Law 2005, so that this Law takes priority.

Article 54 makes consequential amendments to the Income Tax (Jersey) Law 1961, to update references to the Board and to compensation.

Article 55 contains powers to amend this Law and other legislation. Regulations made by the States can amend Parts 3, 4 and 6 of this Law (and the definitions in Articles 1 and 4 in relation to the amended provisions). Regulations made by the States can also amend other legislation in consequence of this Law. If another Law (lodged as a

proposition before the adoption of this Law by the States) commences less than a year after this Law, and provides for resolution procedures or bankruptcy in relation to banks, then the Minister can make, by Order (coming into force within that year), further amendments to this Law or that Law to ensure the two Laws work together.

Article 56 allows any Orders and Regulations made under this Law to include transitional, consequential, incidental, supplementary or savings provisions (including further amendments to this Law).

Article 57 provides for the citation and commencement of this Law. If it is adopted by the States Assembly and approved by Her Majesty in Council, it will come into force 7 days after it is registered by the Royal Court.



Jersey

DRAFT BANK DEPOSITORS COMPENSATION (JERSEY) LAW 201-

Arrangement

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Jersey

DRAFT BANK DEPOSITORS COMPENSATION (JERSEY) LAW 201-

A LAW to provide for compensation of eligible depositors of banks in default, and for related purposes

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTERPRETATION

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“annual administration levy” has the meaning given by Article 25 and includes any additional levy a bank is required to pay under Article 27(5) in relation to such a levy;

“bank” means a registered person within the meaning of the Banking Business Law, or a former registered person within the meaning of that Law;

“bank in default” means a bank that has been declared in default under Article 15;

“Banking Business Law” means the Banking Business (Jersey) Law 1991¹;

“bankruptcy”, in respect of a bank, includes –

(a) the winding up, under Article 155 of the Companies (Jersey) Law 1991², of the bank when it is insolvent (within the meaning of Article 15 of this Law); and

- (b) a status, under the law of a jurisdiction outside Jersey, that is, in the opinion of the Board, equivalent or similar to bankruptcy under the law of Jersey;

“Board” means the Jersey Bank Depositors Compensation Board established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009³ and continued in existence by Article 7(1);

“Commission” means the Jersey Financial Services Commission established by the Financial Services Commission (Jersey) Law 1998⁴;

“Community Savings Ltd” means the company that is an exempt person by virtue of paragraph 2 of Schedule 1 to the Banking Business (General Provisions) (Jersey) Order 2002⁵;

“compensation” means compensation payable under Article 18(1), (4) or (6);

“compensation fund” means a fund established under Article 17;

“compensation levy” means a levy that a bank is liable to pay under Article 26 and includes any additional levy the bank is required to pay under Article 27(5) in relation to such a levy;

“completion of the compensation exercise” means the completion declared under Article 44(1);

“default-related administrative costs” has the meaning given by Article 17(5);

“deposit” has the meaning given by the Banking Business Law, but without reference to Article 2(3)(b), (c) or (e) of that Law (subject to Article 4(6) of this Law), and references to a “depositor” are to be read accordingly;

“depositors compensation scheme” means the scheme for payment of compensation established by and under this Law;

“eligible deposit”, in respect of a bank, means, subject to Article 4, a deposit held by the bank in an account in Jersey in respect of an eligible depositor;

“eligible depositor” has the meaning given to that expression by Article 4;

“function” includes a power and a duty;

“maximum amount of compensation” has the meaning given by Article 22;

“Minister” means the Chief Minister;

“overseas compensation scheme” means a scheme (irrespective of its name) that operates in a jurisdiction other than Jersey and is, in the opinion of the Board, equivalent to the depositors compensation scheme;

“publish”, in relation to a notice, means publish in a manner that, in the opinion of the person publishing the notice, is likely to bring the notice to the attention of those affected by it;

“recurring administrative costs” means any costs of the Board that are neither compensation nor default-related administrative costs, but does not include any payment described in Article 42(1)(a), (d), (e) or (f);

“registration year” has the meaning given by Article 25;

“relevant date”, in respect of a bank in default, has the meaning given by Article 15(5)(c), and a reference to a situation as at a relevant date is a reference to the situation at the start of the day that falls on that relevant date;

“responsible person”, in respect of a bank in default, means –

- (a) if the bank in default is bankrupt, the liquidator (within the meaning of Article 35); or
- (b) if the bank in default is insolvent (within the meaning of Article 15) but not bankrupt, the bank itself;

“States loan” has the meaning given by Article 34;

“working day” means any day other than a Saturday, a Sunday, Christmas Day or Good Friday or a day that is a bank holiday or a public holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951⁶.

- (2) The Minister may by Order amend the definition “Community Savings Ltd” in paragraph (1).

2 Determination of money standing to the credit of an eligible deposit

- (1) For the purposes of this Law, if a bank is declared in default any calculation of the amount of money standing to the credit of an eligible deposit is to be made as at the relevant date in respect of the bank in default.
- (2) Accordingly, the amount of any money standing to the credit of an eligible deposit that is not in the currency of Jersey is to be calculated on the basis –
 - (a) of the opening middle market exchange rate as determined by the Board; or
 - (b) of such other exchange rate as may be determined and published by notice by the Board,as either such rate applied on the relevant date in respect of the bank in default.
- (3) Compensation paid by the Board must be paid in the currency of Jersey.

3 Provisions in respect of joint accounts

- (1) In this Article “joint account” means an account –
 - (a) that is in the names of 2 or more persons; or
 - (b) over which 2 or more persons have rights,that may be operated against the signature of one or more of those persons.

- (2) A deposit held in a joint account with a bank is an eligible deposit to the same extent as an eligible depositor has an interest in the account.
- (3) If an eligible deposit is held in a joint account with a bank, the amount in the account is to be divided –
 - (a) according to the holders' shares in the account; but
 - (b) if there is no indication of the share of each holder, equally between them.

4 “Eligible depositor” defined and “eligible deposit” clarified

- (1) For the purposes of this Law, a depositor with a deposit in a bank account in Jersey is an “eligible depositor” if the depositor –
 - (a) is a natural person and the deposit is for the person's own benefit other than as a partner in a partnership;
 - (b) is a natural person and the deposit is for the benefit of a child of the person or for the benefit of a child for whom the person has parental responsibility;
 - (c) is the administrator or executor of the estate of a deceased person and the deposit represents the whole or part of the proceeds of the estate of the person;
 - (d) is a registered charity, within the meaning of the Charities (Jersey) Law 2014; or
 - (e) is Community Savings Ltd.
- (2) If, by virtue of paragraph (1), a person is an eligible depositor in more than one capacity, the depositor is to be taken to be a separate eligible depositor in each such capacity for the purpose of Article 22.
- (3) Accordingly, if a person is an eligible depositor in respect of more than one child or estate, the depositor is to be taken to be a separate eligible depositor in respect of each such child or estate for the purpose of Article 22.
- (4) Despite the date of maturity of a deposit with a bank in default, an eligible deposit with the bank is to be treated as not including any interest on the deposit in respect of any period after the relevant date in respect of the bank.
- (5) In this Article “a deposit in a bank account in Jersey” does not include a deposit that is being held by a bank that is registered to carry on banking business in Jersey for business recovery reasons.
- (6) For the purpose of this Article, Articles 2(3)(b) and (c) of the Banking Business Law apply in relation to any sum falling within either of those sub-paragraphs, other than a sum paid by Community Savings Ltd (and accordingly nothing in those sub-paragraphs prevents Community Savings Ltd being an eligible depositor).
- (7) In relation to any time before the commencement of Part 4 of the Charities (Jersey) Law 2014, the reference in paragraph (1)(d) to a registered charity is to be read as a reference to a corporation, association or trust, the income from the property of which is exempt from income

tax by virtue of Article 115(a), (aa) or (ab) of the Income Tax (Jersey) Law 1961⁸.

- (8) The Minister may by Order amend –
 - (a) a sub-paragraph of paragraph (1);
 - (b) paragraph (6);
 - (c) paragraph (7).
- (9) For the purpose of this Article a person ceases to be a “child” on attaining the age of 18.

5 Banking groups

- (1) The Board may, by published notice, group banks for the calculation of the annual administration levy.
- (2) The Board may, by published notice –
 - (a) amend a group by adding or removing banks;
 - (b) revoke a grouping.
- (3) If banks are grouped –
 - (a) the banks included in the group are to be taken to be one bank for the purpose of the annual administration levy;
 - (b) a notice, that is given under this Law to a bank in the group, is to be treated as having been given to all the banks in the group, if the notice contains a statement to that effect, irrespective of whether the notice relates to the annual administration levy or not.
- (4) The States may by Regulations amend this Article to make alternative provision as to the grouping of banks for any purpose of this Law.

6 Extension of periods of 5 years

The Board may, by published notice and with the consent of the Minister, extend any period of 5 years mentioned in this Law to a date specified in the notice in relation to a bank in default so specified.

PART 2

THE JERSEY BANK DEPOSITORS COMPENSATION BOARD

7 Jersey Bank Depositors Compensation Board

- (1) The Jersey Bank Depositors Compensation Board, established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009⁹, is to continue in existence under this Law.
- (2) Accordingly the Board –
 - (a) remains an incorporated body that may, in its own name –
 - (i) sue and be sued,

- (ii) enter into contracts, and
- (iii) acquire, hold and dispose of property of any type; and
- (b) may, in so far as it is possible for an incorporated body to do so –
 - (i) exercise the rights, powers and privileges, and
 - (ii) incur the liabilities and obligations,
of a natural person of full age and capacity.

8 General functions of Board

- (1) The general functions of the Board are –
 - (a) to administer the depositors compensation scheme, including in particular –
 - (i) establishing and maintaining arrangements in readiness for the possibility of a default,
 - (ii) obtaining and sharing information in accordance with Article 45,
 - (iii) paying compensation for any default in as timely a manner as is practicable in the circumstances, and
 - (iv) ensuring that banks comply with their obligations to the Board under this Law, including by exercising the Board's enforcement powers under this Law and assisting other persons in their enforcement of this Law; and
 - (b) to arrange for the publication of information for the public on the operation of the depositors compensation scheme.
- (2) In the exercise of its functions the Board must ensure that –
 - (a) the Board and the depositors compensation scheme are administered in a prudent and economical manner; and
 - (b) the resources of the Board are used efficiently and effectively.
- (3) In the exercise of its functions the Board must have regard to the objectives of –
 - (a) protecting the interests of depositors; and
 - (b) contributing to financial stability.
- (4) The Board may do anything reasonably necessary or expedient for or incidental to any of its functions, and may in particular, in the exercise of those functions –
 - (a) borrow money, whether for a compensation fund or for any of its other functions;
 - (b) invest money, whether standing to the credit of a compensation fund or otherwise;
 - (c) insure against its liabilities, whether in connection with the administration of a compensation fund or with any of its other functions;
 - (d) insure against such liabilities of its members, or indemnify its members in respect of those liabilities;

- (e) appoint an employee, agent or contractor to assist it in exercising any of its functions;
 - (f) set operating budgets, policies, systems and practices.
- (5) The States may by Regulations amend any of paragraphs (1) to (4) to make different provision as to the general functions of the Board.
- (6) The Board may delegate any of its functions under this or any other enactment wholly or partly to –
- (a) a member of the Board;
 - (b) a person appointed under paragraph (4)(e); or
 - (c) a committee established by the Board, consisting of Board members alone or together with other persons (whether appointed under paragraph (4)(e) or not) appearing to the Board to be appropriate for the committee.
- (7) Nothing in paragraph (6) –
- (a) applies to the Board’s function of reviewing decisions under Article 50(6)(b); or
 - (b) authorizes the Board to delegate this power of delegation.
- (8) The delegation of a function under paragraph (6) –
- (a) does not prevent the performance of that function by the Board itself; and
 - (b) may be amended or revoked by the Board.

9 Independence of Board

The Board is independent of the Minister and of the States, and accordingly neither a Minister nor the States are liable for –

- (a) an act or an omission of the Board; or
- (b) a debt or other obligation of the Board.

10 Constitution of Board

- (1) The Board must have at least 3 members.
- (2) A person may be appointed as a member of the Board to serve as –
 - (a) a representative of the Minister;
 - (b) a representative of any group of persons appearing to the Minister to have an interest in the operations of the Board; or
 - (c) an independent member.
- (3) The members of the Board are to be appointed by the Minister.
- (4) A person is not 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 1991¹⁰ or Article 24(7) of the Bankruptcy (Désastre) (Jersey) Law 1990¹¹; or
 - (c) bankrupt.
- (5) The appointment of a person as a member of the Board ceases if the person becomes a person who would not be eligible for appointment as a member of the Board.
 - (6) The rights and obligations of the Board, and the performance of its functions, are not affected by –
 - (a) any vacancy in its membership; or
 - (b) any defect in the appointment of a member.
 - (7) Persons appointed to serve as representatives, for the purpose of paragraphs (2)(a) and (2)(b), must not constitute, under the procedures of the Board, a majority of those voting on a particular decision of the Board.
 - (8) Paragraphs (2)(a) and (2)(b) do not limit Article 9.

11 Terms and conditions of appointment of members of 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.

12 Procedures of Board and Ministerial guidance and directions

- (1) The quorum for a meeting of the Board is 2 members.
- (2) The Board must keep a record of its decisions.
- (3) The Minister may determine the procedures of the Board.

- (4) Except as otherwise provided by paragraphs (1) and (2), and by the Minister under paragraph (3), the Board may determine its own procedures.
- (5) Paragraph (6) applies if the Minister –
 - (a) consults the Board before exercising the power under that paragraph; and
 - (b) considers that the exercise of that power is in the public interest.
- (6) The Minister may give in writing to the Board guidance, or general directions, in respect of –
 - (a) the policies to be followed by the Board in relation to the operation of the depositors compensation scheme; and
 - (b) the manner in which any function of the Board is to be carried out.
- (7) The Board must, in carrying out any of its functions, have regard to any guidance and act in accordance with any directions given to it by the Minister under this Article.
- (8) Paragraphs (3), (5), (6) and (7) do not limit Article 9.

13 Limitation of liability

- (1) This Article applies to –
 - (a) the States;
 - (b) a Minister;
 - (c) the Board;
 - (d) a member of the Board;
 - (e) a person appointed under Article 8(4)(e); and
 - (f) a person who is carrying out a function of the Board.
- (2) A body or person to whom this Article applies is not liable in damages for anything done or omitted to be done in the discharge or purported discharge of a function under this Law.
- (3) Paragraph (2) does not apply if it is shown that the act or omission was in bad faith.
- (4) Nor does it apply, in the case of a body acting as a public authority for the purpose of Article 7 of the Human Rights (Jersey) Law 2000¹², so as to prevent an award of damages made in respect of an act of that body on the ground that the act was unlawful as a result of Article 7(1) of that Law.

14 Budget, accounts and report

- (1) The Board must, before the end of each financial year (irrespective of whether any bank is in default in that year) adopt a budget for that financial year, and may vary its budget at any time during a year.
- (2) The Board must keep accounts prepared in accordance with generally accepted accounting principles that show a true and fair view –

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- (a) of the profit or loss of the Board for the financial year; and
 - (b) of the state of the Board's affairs at the end of the financial year.
 - (3) The Board's accounts must deal with each compensation fund separately –
 - (a) from any other compensation fund in respect of another bank in default; and
 - (b) from any other money received, held or expended by the Board.
 - (4) The Board must, within 3 months after the end of the financial year, have its accounts audited by an auditor, as defined by Article 102(1) of the Companies (Jersey) Law 1991¹³.
 - (5) The Board must, within 3 months after its accounts have been audited, provide the Minister with –
 - (a) its audited accounts; and
 - (b) a report.
 - (6) The report must contain –
 - (a) details of the Board's activities during the financial year; and
 - (b) such other information as the Minister may direct the Board to provide.
 - (7) The Minister must lay the accounts and report before the States as soon as practicable after receiving them.
 - (8) The Board must keep records that permit its financial position to be ascertained with reasonable accuracy at any time.
 - (9) In this Article "financial year" has the meaning given by Article 1(1) of the Public Finances (Jersey) Law 2005¹⁴.

PART 3

DEFAULT AND COMPENSATION

15 Board to determine whether to declare bank to be in default

- (1) As soon as practicable after the Board determines that, in its opinion, a bank is bankrupt or insolvent, the Board must, by publishing a notice, declare the bank to be in default.
- (2) Paragraph (1) does not apply if, and for so long as, the Board considers that –
 - (a) a resolution procedure has started and has not finished, or is likely to start within a reasonable time, in respect of the bank; and
 - (b) it is appropriate, in the light of that procedure, not to declare the bank in default for the time being or at all.
- (3) If the Board publishes a notice under paragraph (1), the Board must –
 - (a) specify, in the notice, the date on which the bank is to be treated as having become in default; and

- (b) notify the Minister of the name of the bank and the relevant date.
- (4) The Minister must, as soon as practicable after being notified, inform the States of the name of the bank and the relevant date.
- (5) For the purposes of this Article, in respect of a bank in default –
 - (a) “resolution procedure” means a procedure in respect of the bank, whether conducted in Jersey or elsewhere, that –
 - (i) appears to the Board to be intended to resolve problems arising in connection with the bankruptcy or insolvency of the bank, and
 - (ii) does not amount solely to bankruptcy proceedings, irrespective of whether it is conducted in combination with bankruptcy proceedings or otherwise;
 - (b) “insolvent” means unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred by the bank; and
 - (c) “relevant date” means the date specified under paragraph (3)(a) in respect of the bank.
- (6) The Board must not specify a date as the relevant date in respect of a bank in default unless that bank was a registered person, within the meaning of the Banking Business Law, on that date.
- (7) If, after the Board has declared a bank to be in default, the Board considers that sub-paragraphs (a) and (b) of paragraph (2) both apply, the Board may postpone the performance of any of its functions under this Law, including the payment of compensation, until it is satisfied that those sub-paragraphs no longer apply.
- (8) The Minister may, by Order, amend this Article to make alternative provision as to declaring a bank to be in default.

16 Board must take preliminary steps in respect of default

- (1) This Article applies when the Board has declared a bank in default.
- (2) The Board must, as soon as practicable after the declaration, send to each bank, other than the bank in default, a notice requiring the bank, within 2 working days of the receipt of the notice or such longer time as may be specified in the notice, to provide to the Board –
 - (a) a statement of that bank’s relevant holding (within the meaning of Article 30) as at the relevant date; and
 - (b) any evidence required by the Board in support of the statement.
- (3) As soon as practicable after the declaration, the Board must send, to the responsible person in respect of the bank in default, a notice requiring that responsible person to provide to the Board –
 - (a) a statement of that bank’s relevant holding (within the meaning of Article 30) as at the relevant date; and

-
- (b) other information, held by the bank in default, required by the Board to enable it to calculate each compensation payment to be made in respect of the default.
 - (4) The responsible person must provide the statement and information –
 - (a) as soon as is practicable and no later than 2 working days after the receipt of the notice, or than such later time as may be specified in the notice; and
 - (b) in such form, subject to Article 47(3), and verified in such manner as may be specified in the notice.
 - (5) The Board may at any time send to the responsible person in respect of the bank in default a further notice requiring the responsible person, within 2 working days of the receipt of the notice or such longer time as may be specified in the notice, to provide to the Board such further information or documents in respect of the bank in default as are required by the Board to enable it to carry out its functions under this Law, the information to be provided in such form and verified in such manner as the Board may specify.
 - (6) The Board may, on the application of the bank or the responsible person to whom it was sent, extend the period specified in a notice sent under this Article as the period for compliance with the notice.
 - (7) The Board must, as soon as reasonably possible, also make or activate such further arrangements as it considers expedient to administer the depositors compensation scheme in respect of the bank in default.
 - (8) Those arrangements must, in respect of any compensation not paid by way of straight-through pay-out (within the meaning of Article 19), be designed in particular to ensure –
 - (a) that applications for that compensation are submitted to the Board as soon as practicable;
 - (b) that applicants for that compensation are given clear instructions on how they may make applications for compensation; and
 - (c) that each claim for that compensation is properly verified.
 - (9) A bank that fails, without reasonable cause, to comply with a notice sent to it under paragraph (2) is guilty of an offence and is liable to a fine.
 - (10) A responsible person who without reasonable cause fails to comply with a notice sent to that person under paragraph (3) or (5) is guilty of an offence and is liable to a fine.

17 Board must establish a compensation fund

- (1) The Board must –
 - (a) establish and maintain a separate compensation fund in respect of each bank in default; and
 - (b) pay into that compensation fund all money received by the Board in respect of that default.
- (2) Paragraph (1)(b) applies irrespective of whether money is received –
 - (a) as a loan (including a States loan);

- (b) as a compensation levy;
 - (c) by way of adjustment under Article 32(6)(b);
 - (d) as an amount described in Article 38(8);
 - (e) as an amount described in Article 39(7); or
 - (f) otherwise.
- (3) The Board must not make any payment out of a compensation fund, established for a particular default, other than –
- (a) payment of the Board’s default-related administrative costs in respect of that default;
 - (b) payment of compensation in respect of that default;
 - (c) any payment to another compensation fund by way of adjustment under Article 32(6)(b); and
 - (d) any payment under Article 42(1)(d), (e) or (f) in respect of that default.
- (4) Nothing in this Law is to be read, unless otherwise expressly provided, as limiting, by reference to the source of any money paid into a compensation fund, any power or duty of the Board to make a payment out of that fund.
- (5) In this Law “default-related administrative cost” means any money payable by the Board, other than as described in any of paragraphs (3)(b), (3)(c) and (3)(d), if the payment is, in the opinion of the Board, attributable to the operation of the depositors compensation scheme in relation to a particular bank in default, including –
- (a) repayments of borrowings paid into the compensation fund (subject to Article 34), and associated interest and costs;
 - (b) costs of and related to insurance against the Board’s liabilities in respect of the compensation fund or the bank in default;
 - (c) any expenses of the members of the Board that would not have been incurred but for the default; and
 - (d) any increase, attributable to a default, in the amount of a payment that would have been made at a lower rate but for the default.
- (6) For the purpose of paragraph (5) but without prejudice to its generality, the following are not to be treated as attributable to the operation of the depositors compensation scheme in relation to a particular bank in default (and accordingly are recurring administrative costs) –
- (a) the remuneration of members of the Board, and any of their expenses not falling within paragraph (5)(c); and
 - (b) the costs of insuring those members against risks that do not vary according to whether a bank is or has been in default.

18 Board must pay compensation by primary payment date

- (1) The Board must, before or on the primary payment date, pay to an eligible depositor, in respect of an eligible deposit, the maximum amount

- of compensation payable to that depositor in respect of the bank in default.
- (2) For the purpose of this Article the primary payment date, in relation to a bank in default, is 7 working days after the day on which the Board is satisfied that the responsible person has complied with the notice under Article 16(3).
 - (3) The Board may pay compensation, in respect of an eligible depositor who is not resident in Jersey, to another person for onward payment to that depositor, if the Board considers that to do so would more efficiently achieve payment to that depositor.
 - (4) If the Board is not satisfied that both conditions in paragraph (5) are met, the Board may pay, for the purpose of paragraph (1), a part of the maximum amount of compensation payable to the depositor in respect of the bank in default, being such part as appears prudent to the Board having regard to Article 42.
 - (5) The conditions are –
 - (a) that there is sufficient money in the compensation fund to make all payments of maximum amounts of compensation; and
 - (b) that there is, or will be by the completion of the compensation exercise, sufficient money in the compensation fund to pay all default-related administrative costs in full.
 - (6) If the Board makes a part payment under paragraph (4), the Board must make further payments, towards the remaining part of the maximum amount of compensation, at any subsequent time when it is satisfied that there is sufficient money in the compensation fund to enable it to do so without contravening Article 42.
 - (7) Paragraphs (1), (4) and (6) are subject to the powers of the Board under Articles 15(7), 21(1)(a), 36(5)(a), 38(6), 39(6)(a) and 40(5)(b) to postpone payment of compensation.
 - (8) The Board must not pay compensation in respect of a bank in default more than 5 years after the relevant date in respect of that bank.
 - (9) The Board may, by published notice, postpone the primary payment date if the Board and the Minister are satisfied that –
 - (a) to do so would assist the Board in the application of Article 42(3); or
 - (b) it is otherwise appropriate to do so for the better administration of the depositors compensation scheme or for a related purpose.

19 Straight-through pay-out

- (1) The Board must pay compensation (by way of “straight-through pay-out”) without requiring an application under Article 20, unless it publishes a notice under paragraph (4) in respect of that compensation.
- (2) Paragraph (4) applies if, in the opinion of the Board, it is not reasonable in the circumstances to assess compensation, or compensation in respect

of a description of deposits, without any additional information or evidence that might be provided by applications under Article 20.

- (3) In making a determination under paragraph (2) the Board must have particular regard to –
 - (a) the information that the Board holds on the bank and the deposits (whether derived from the records of the bank or elsewhere);
 - (b) any practical constraint on the ability of the Board to make payments by way of straight-through pay-out in the particular circumstances of the default; and
 - (c) the Board's function of timely payment of compensation under Article 8(1)(a)(iii).
- (4) If this paragraph applies, the Board may, by published notice, require an application to be made to the Board under Article 20 –
 - (a) for all compensation payable in respect of the bank in default; or
 - (b) for compensation payable in respect of a description, specified in the notice, of deposits held by that bank.
- (5) For the purpose of paragraph (4)(b) a description of deposits may be framed in terms of –
 - (a) the amounts or any other characteristics of the deposits themselves;
 - (b) any characteristics of depositors or of any other persons having any relationship to the deposits; or
 - (c) any other factor having any other relation to the deposits.

20 Application for compensation not payable by way of straight-through pay-out

- (1) This Article applies to compensation in relation to which the Board has published a notice under Article 19(4) requiring an application to be made to the Board for the compensation.
- (2) An application must, to the satisfaction of the Board –
 - (a) specify the name and address of the applicant;
 - (b) provide sufficient evidence to show that the applicant is an eligible depositor;
 - (c) provide sufficient evidence to identify the applicant's eligible deposit and the amount of that deposit;
 - (d) contain details of any payments mentioned in Article 24(1) and (2) that the applicant has received;
 - (e) specify the manner in which any compensation payable by the Board to the applicant is to be paid; and
 - (f) contain or provide any other information or matter necessary to allow the Board to verify the applicant's claim for compensation and to pay the compensation to the applicant.
- (3) Despite Articles 18(1), 18(4), 18(6) and 43(3), the Board must not pay the compensation unless the Board has received an application complying with paragraph (2) for that compensation –

- (a) within 6 months after the relevant date in respect of the bank in default; or
- (b) within such longer period as the Board considers reasonable, subject to Article 18(8), if the Board is satisfied that the applicant was prevented by events outside the applicant's control from applying within the period mentioned in sub-paragraph (a).

21 Postponement of and refusal of payment of compensation

- (1) If it appears to the Board that one or more of the grounds in paragraph (2) applies, the Board may –
 - (a) postpone a payment of compensation in respect of an eligible deposit; or
 - (b) refuse such a payment.
- (2) The grounds are –
 - (a) that there is any reason for which the bank in default would, but for the default, have had a right or duty to postpone or refuse payment of the deposit;
 - (b) that the account in which the deposit is held may be dormant for any reason; or
 - (c) that there is any other reason justifying the exercise of the power conferred by paragraph (1) in the circumstances.
- (3) The reasons that may be taken into account under paragraph (2)(a) include –
 - (a) a reason related to seizure, detention, restraint, freezing, forfeiture, confiscation or other prohibition of dealing under any one or more of the following –
 - (i) the anti-money laundering and counter-terrorism legislation, within the meaning of Article 3 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008¹⁵,
 - (ii) the Proceeds of Crime (Cash Seizure) (Jersey) Law 2008¹⁶, or any Regulations or Order made under that Law,
 - (iii) the Criminal Justice (International Co-operation) (Jersey) Law 2001¹⁷, or any Regulations or Order made under that Law,
 - (iv) an Order under Article 2(1) of the European Union Legislation (Implementation) (Jersey) Law 2014¹⁸, and
 - (v) any similar legislation under the law of a country or territory outside Jersey; and
 - (b) any other reason related to an injunction, ownership dispute, pending or ongoing litigation or court order, or death or disability of the depositor.
- (4) The reasons that may be taken into account under paragraph (2)(b) include –
 - (a) that any records of the bank in default class the account as dormant;

- (b) that 2 months or more have passed without a response to a communication sent by the Board to an address recorded as that of the depositor in the records of the bank in default;
 - (c) that the account otherwise appears to be dormant within the meaning of any enactment of Jersey or elsewhere that appears to the Board to be relevant; and
 - (d) any other reason for which an account might reasonably be described as dormant.
- (5) In assessing a reason for the purpose of paragraph (2)(c), the Board may, without limitation, have regard to –
- (a) the Board's general function under Article 8(1)(a)(iii); and
 - (b) the desirability of administering the depositors compensation scheme for any default so that the maximum compensation under Article 22 is paid to each eligible depositor, or, if that is not possible, so that the compensation is paid as fully as appears to the Board to be practicable and fair in the circumstances.
- (6) A postponement of payment of compensation under this Article takes effect as a refusal of payment under this Article, if the postponement would otherwise extend beyond the time allowed for payment by Article 18(8).
- (7) Paragraph (8) applies if –
- (a) a right in respect of an eligible deposit is vested in the Board under Article 38 or 39; and
 - (b) the Board refuses payment of compensation under this Article in relation to that deposit.
- (8) If this paragraph applies –
- (a) the Board must repay to the responsible person any amount the Board has received from that person by virtue of Article 38 or 39 in respect of the right; and
 - (b) the right vests back in the eligible depositor whose right it was before it vested in the Board.

22 Maximum amount of compensation

- (1) The maximum amount of compensation that the Board may pay to an eligible depositor in respect of a bank in default is the lesser of –
- (a) £50,000; or
 - (b) an amount equal to the total amount of all eligible deposits that the eligible depositor had with the bank in default on the relevant date in respect of that bank.
- (2) In calculating the amount for the purpose of paragraph (1)(b) no account is to be taken of any right (whether under an enactment, a provision of a contract, a rule of customary law, a law of another jurisdiction, or otherwise) of set-off or counter-claim that the bank may have against the depositor or the deposit, or of any similar right that might otherwise reduce the amount.

- (3) Paragraph (4) applies, despite paragraph (1), if Community Savings Ltd is an eligible depositor.
- (4) The maximum amount of compensation that the Board may pay to Community Savings Ltd in respect of a bank in default is an amount equal to the total of the amounts that each natural person had in an account with Community Savings Ltd on the relevant date in respect of the bank in default, subject to a maximum of £50,000 in respect of each such person.
- (5) References in this Law to the maximum amount of compensation are to the amount calculated under this Article, as read with Articles 21(1)(b), 23 and 24.
- (6) The Minister may by Order amend paragraphs (3) and (4) to make alternative provision for the application of this Article in respect of Community Savings Ltd.

23 Entitlement under an overseas depositors compensation scheme

- (1) This Article applies if an eligible depositor in respect of a bank in default is entitled to receive a payment that, in the opinion of the Board, is equivalent to compensation and is paid under an overseas compensation scheme.
- (2) The eligible depositor is not entitled to receive compensation under this Law, except to any extent that the Board agrees with the person or body administering the scheme in the other jurisdiction.
- (3) Despite paragraph (2), in the absence of agreement under that paragraph, the Board may pay compensation to the eligible depositor.
- (4) The Board's power to pay compensation under paragraph (2) or (3) is subject to Article 24(1) and (2)(a).

24 Reduction in amount of compensation

- (1) The Board must use its best endeavours to ensure that an amount, equal to any payments that an eligible depositor receives in respect of an eligible deposit other than by way of compensation, is deducted from the amount of compensation paid to that depositor in respect of that deposit.
- (2) Those payments include any amount that the eligible depositor has received –
 - (a) from an overseas compensation scheme;
 - (b) from an insurance policy taken out by the depositor or taken out on his or her behalf; or
 - (c) from the responsible person in respect of the bank in default.
- (3) A payment is to be disregarded for the purpose of paragraphs (1) and (2) if the depositor pays to the Board an amount equal to that payment under Article 38(2)(b), 38(7)(b) or 39(4)(b)(ii).
- (4) A person –
 - (a) who is paid compensation by the Board; and

- (b) who subsequently receives a payment falling within paragraph (5), must, within 30 working days of receiving the payment, pay to the Board an amount equal to whichever is the lesser of the payment received and the compensation paid.
- (5) A payment falls within this paragraph if –
- (a) it is a payment mentioned in paragraph (1);
 - (b) it is received by the depositor after the Board has paid compensation to the depositor, but before the completion of the compensation exercise; and
 - (c) the payment and the compensation are both in respect of the same eligible deposit.
- (6) A person who, without reasonable cause, contravenes paragraph (3) is guilty of an offence and liable to a fine and to imprisonment for a term of 2 years.

PART 4

LEVIES ON BANKS

25 Annual administration levy

- (1) An annual administration levy is a levy raised by the Board in relation to a particular registration year, to enable the Board to do any one or more of the following –
- (a) to meet its expected recurring administrative costs in that year;
 - (b) to provide or maintain a reserve, of an amount appearing to the Board to be prudent in that year, against potential recurring administrative costs in future years (whether by way of contingency, allowance for depreciation, or otherwise); and
 - (c) to provide or maintain a reserve, of an amount appearing to the Board to be prudent in that year, against the possibility, in the event of a bank being declared in default in that or any subsequent year, of the Board wishing to pay initial default-related administrative costs without needing to wait for receipt of other funding for those costs.
- (2) The provisions of this Law on annual administration levies accordingly apply to any registration year irrespective of whether any bank is in default in that year.
- (3) In respect of each registration year the Board –
- (a) must review, in the light of its budget, whether it will need to raise an annual administration levy for that registration year;
 - (b) may, in the light of that review, decide to raise an annual administration levy for that year; and
 - (c) must, if it does so decide, also decide the amount to be raised as such a levy for that year.

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- (4) A bank is liable to pay to the Board an annual administration levy in respect of a year if –
 - (a) that year is a registration year for which the Board decides under paragraph (3)(b) to raise a levy;
 - (b) the bank is registered under the Banking Business Law during any part of that year, irrespective of whether it is not so registered during any other part of that year; and
 - (c) the bank held an eligible deposit during any part of that year, irrespective of whether it held such a deposit during any other part of that year.
 - (5) The Minister may, by notice to the Board, direct the Board not to raise more than a specified amount of annual administration levy for a specified registration year.
 - (6) An amount specified under paragraph (5) applies to registration years subsequent to the specified year, unless the Minister withdraws or amends the notice.
 - (7) The Board may, by notice to a bank, waive or reduce the liability of that bank to pay an annual administration levy in respect of a particular year, if the Board considers that to do so is in the interests of fairness to that bank, or in the interests of Jersey or otherwise necessary for the good administration of this Law.
 - (8) For the purpose of this Article, “registration year” means –
 - (a) the period (whether of one year or shorter) starting on the commencement of this Law and ending on the next 31st January; and
 - (b) each subsequent period of 12 months ending on 31st January.
 - (9) The Minister may by Order amend the definition of “registration year” in paragraph (8).

26 Compensation levy

- (1) This Article applies to a bank (the “relevant bank”) if another bank (the “defaulting bank”) is declared in default.
- (2) The relevant bank is liable to pay a compensation levy, in respect of the defaulting bank, if the relevant bank –
 - (a) is not in default; and
 - (b) held eligible deposits on the relevant date in respect of the defaulting bank.

27 Notice of levies

- (1) This Article applies to both annual administration levies and compensation levies, except as expressly otherwise provided.
- (2) The Board –
 - (a) must calculate the levy to be paid by each bank liable to pay a levy; and

- (b) must, as soon as practicable and no later than the date specified in paragraph (3), send a written notice to each such bank, requiring it to pay the levy.
- (3) The date referred to in paragraph (2)(b) is –
 - (a) in the case of an annual administration levy, one month after the Board decides to raise the levy, or the end of the registration year for that levy, whichever is sooner; or
 - (b) in the case of a compensation levy, 6 months after the relevant date in respect of the bank in default.
- (4) The notice must specify –
 - (a) the levy the bank is required to pay;
 - (b) how the levy has been calculated; and
 - (c) the date or dates on which the levy or any instalment of the levy becomes payable.
- (5) If, at any time, the Board is satisfied that it has become necessary to do so, it may, by written notice sent to each bank required to pay the levy, require each such bank to pay an additional levy.
- (6) Paragraph (7) applies if –
 - (a) a bank fails to provide a statement required under Article 16(2)(a) within the time allowed under paragraph (4)(a) of that Article; or
 - (b) the Board is satisfied that a statement provided by a bank, under that Article, is materially inaccurate.
- (7) The Board may, by written notice sent to the bank, require the bank to pay an additional levy representing any underpayment that the Board considers is attributable to that failure or inaccuracy, after taking account of the effect of sub-paragraphs (a) and (b) of the definition of “A” in the formula in Article 31.
- (8) The notice under paragraph (5) or (7) must specify –
 - (a) the additional levy the bank is required to pay;
 - (b) how the additional levy has been calculated; and
 - (c) the date or dates on which the additional levy or any instalment of the levy becomes payable.
- (9) A bank to which a notice has been sent under paragraph (2)(b), (5) or (7) must pay the levy or instalment on the date specified in the notice as the date when that levy or instalment becomes payable.
- (10) A levy or instalment that has become payable is a debt due to the Board and may be sued for accordingly.

28 Amount of annual administration levy

- (1) To calculate the amount of annual administration levy to be paid by each bank liable to pay such a levy in a registration year, the Board must divide the amount decided under Article 25(3)(c) by the number of banks so liable.

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- (2) If the Board has accepted a payment from a bank towards the Board's recurring administrative costs, other than as an annual administration levy, the Board must –
- (a) disregard the contribution in deciding the amount under Article 25(3)(c), and give credit for the contribution against the amount calculated under paragraph (1) in respect of that bank; or
 - (b) adjust the amounts calculated under paragraph (1) in respect of different banks in such other manner as the Board considers to be equitable in all the circumstances.

29 Total amount of compensation levies

Subject to the limitations set out in Articles 32 and 33, the total of the amounts of compensation levy to be paid by the banks liable to pay such a levy in respect of a bank in default must be sufficient to raise such amount as the Board estimates will be necessary to meet –

- (a) the payment by it of compensation in respect of the bank in default;
- (b) the Board's default-related administrative costs in that respect; and
- (c) the repayment of any States loan.

30 Returns from banks

- (1) Each bank that holds an eligible deposit at the end of any calendar year must send to the Board an annual holdings return, to be received by the Board within 28 days of the end of that calendar year.
- (2) An annual holdings return must contain statements, as at the end of the calendar year to which it refers, of –
 - (a) the bank's relevant holding;
 - (b) the total amount held by the bank by way of deposits, including both eligible and other deposits;
 - (c) the total amount held by the bank by way of relevant amounts of eligible deposits, being amounts that do not exceed £50,000;
 - (d) the number of eligible depositors in respect of whom the bank holds eligible deposits; and
 - (e) the total assets of the bank.
- (3) For the purposes of this Article a bank's "relevant holding" as at a particular time is the total amount held by that bank at that time by way of eligible deposits.
- (4) If a bank's relevant holding, as at any time during the calendar year following the year to which the bank's last return relates, is at least 10% less than the amount stated in that return, the bank may send to the Board a further return containing a statement of the lesser relevant holding.
- (5) A return sent under paragraph (1) or (4) –
 - (a) must be in any form required in a notice published by the Board in relation to all such returns or to returns of any description specified in the notice;

- (b) must be accompanied by any additional information required in such a notice; and
 - (c) may be sent to the Board through a third party, if such a notice so provides.
- (6) The Minister may, by Order, amend paragraph (2) or (5) to make alternative provision as to the contents, form or sending of a return.
- (7) This Article applies to any period irrespective of whether any bank is in default in that period.
- (8) A bank that fails, without reasonable cause, to comply with paragraph (1) is guilty of an offence and is liable to a fine.

31 Amount of compensation levy to be paid by each bank

Subject to the limitations set out in Articles 32 and 33, the Board must require each bank liable to pay a compensation levy in respect of a bank in default to pay by way of compensation levy $\frac{A}{B}$ of the amount required for the purposes mentioned in Article 29 where –

A = the amount stated by the bank in compliance with the notice under Article 16(2)(a), or, if the bank failed to comply with that notice, the amount most recently stated by the bank –

- (a) under Article 30(2)(a) or (4); or
- (b) in compliance with a notice falling within Article 47(2); and

B = the total of the amounts so stated by all the banks liable to pay a compensation levy.

32 Limitation on amount the Board may raise by way of compensation levy

- (1) The maximum amount that the Board may raise by way of compensation levy in respect of one or more banks in default over any period of 5 years (whether from a relevant date or from any other date) is £100 million.
- (2) This Article –
- (a) does not affect the calculation of amounts of compensation under Article 22; and
 - (b) is not to be read as prohibiting a bank from choosing to pay in a period of 5 years any amount of compensation levy for which it will be liable in any subsequent period.
- (3) Paragraphs (4) to (6) apply if –
- (a) a bank (the “initial bank”) is declared in default;
 - (b) another bank (the “subsequent bank”) is declared in default; and
 - (c) the relevant date in respect of the subsequent bank is on, or within the period of 5 years after, the relevant date in respect of the initial bank.

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- (4) If the relevant date in respect of the subsequent bank is on or after the date of the making of the first payment of compensation in respect of the initial bank, the Board must, for the purpose of paragraph (1) –
- (a) raise a compensation levy in respect of the initial bank in preference to a compensation levy in respect of the subsequent bank; or
 - (b) apply the limitation under paragraph (1) to the raising of compensation levies in respect of the initial and subsequent banks in another manner, as to preference, proportion or otherwise as between the banks, that the Board considers equitable in the circumstances.
- (5) If the relevant date in respect of the subsequent bank is before the date of the making of the first payment of compensation in respect of the initial bank, the Board must, for the purpose of paragraph (1) –
- (a) raise compensation levies in respect of the initial bank and the subsequent bank in proportion to the Board's estimate of the total compensation payable in respect of each bank; or
 - (b) apply the limitation under paragraph (1) to the raising of compensation levies in respect of the initial and subsequent banks in another manner, as to preference, proportion or otherwise as between the banks, that the Board considers equitable in the circumstances.
- (6) If, as a result of the operation of paragraph (4)(b), (5)(a) or (5)(b), the Board considers that a compensation levy demanded in respect of the initial bank should be applied in respect of the subsequent bank, the Board may –
- (a) treat the compensation levy as payable in respect of the subsequent bank; and
 - (b) if the Board has paid the proceeds of the compensation levy into the compensation fund in respect of the initial bank, make a payment, of any amount it considers expedient by way of adjustment, from that compensation fund to the compensation fund in respect of the subsequent bank.

33 Limitation on liability of banks to pay compensation levy

- (1) The Board may not require a bank to pay compensation levy –
- (a) in respect of one bank in default –
 - (i) exceeding 0.3% of the eligible deposits held on the relevant date by the bank paying the levy, or
 - (ii) in respect of any period after the 5 year period starting on that relevant date; or
 - (b) in respect of one or more banks in default, over any period of 12 months (starting on any date) –
 - (i) exceeding £2 million, if the amount calculated under subparagraph (a)(i) is or would exceed £10 million, or
 - (ii) exceeding £1 million, in any other case.

- (2) Paragraph (1)(a)(ii) does not prevent the enforcement, after the 5 year period, of a requirement to pay a compensation levy arising before the end of that period.
- (3) Paragraph (1)(b) does not prevent a bank from choosing to pay in one period of 12 months any amount of compensation levy that may be required from it in any subsequent such period.
- (4) This Article does not permit the Board to raise more in compensation levy than the maximum permitted by Article 32, and Article 32 does not permit the Board to require a bank to pay more in compensation levy than the amount that may be required from that bank under this Article.

34 Treatment of loan from States

- (1) This Article applies to any loan (a “States loan”) made by the States to the Board in respect of a default.
- (2) Subject to paragraph (5), the repayment of the States loan (as distinct from the payment of any interest or costs associated with that loan) is not to be treated as a default-related administrative cost, despite Article 17(5)(a).
- (3) Despite Articles 17(4) and 42, the Board –
 - (a) must apply the States loan to the payment of compensation and default-related administrative costs; and
 - (b) must apply any money received by way of compensation levy firstly to the repayment of the States loan and of any interest and costs associated with that loan, and secondly to any other payments under Article 42.
- (4) Paragraph (3)(b) does not apply to the extent that the Minister, after consultation with the Minister for Treasury and Resources, by notice to the Board, permits the Board to apply to the payment of compensation, in preference to payment to the States under that sub-paragraph, all of, or a specified amount of, any money received by way of compensation levy.
- (5) The Minister may, in a notice granting permission under (4), specify that paragraph (2) is not to apply to the repayment of all of, or a specified amount of, any of the States loan that remains due after the payment of compensation permitted by the notice.
- (6) In paragraphs (4) and (5) the reference to a specified amount is to an amount that –
 - (a) is specified in the notice; or
 - (b) is to be calculated or otherwise determined in a manner specified in the notice.

PART 5**LIQUIDATORS, FOREIGN LAW AND ASSIGNMENT OF RIGHTS****35 Duties of liquidators**

- (1) This Article applies if a bank –
 - (a) is in default; and
 - (b) is bankrupt.
- (2) The liquidator of the bank must work with the Board so as to ensure that all compensation is paid out as soon as is reasonably practicable, and in particular –
 - (a) must comply with every reasonable requirement of the Board to provide any assistance in relation to the depositors compensation scheme; and
 - (b) must give precedence to the duties imposed under this paragraph over any other duties relating to the winding up of the affairs of the bank, but must begin working towards compliance with both such classes of duty immediately upon appointment.
- (3) Nothing in this Article is to be read as preventing, by virtue of a person being or becoming the liquidator of the bank, the Board from –
 - (a) under Article 8(4)(e), appointing that person as an agent or contractor;
 - (b) under Article 8(6)(b), delegating a function to that person;
 - (c) under Article 8(6)(c), delegating a function to a committee of which that person is a member; or
 - (d) maintaining such an appointment or delegation,and accordingly paragraph (2) applies to the liquidator irrespective of such an appointment or delegation.
- (4) In this Article, “liquidator” means the person for the time being charged with the administration of the property of the bank.

36 Conditions related to foreign law

- (1) The Board may impose a condition on a payment of compensation if it appears to the Board, in respect of a relevant right (within the meaning of Article 37) of an eligible depositor, that the condition is likely to be proportionate and effective in assisting in –
 - (a) achieving recognition under a foreign law of the effect on the depositor’s right of the operation under Jersey law of a priority provision;
 - (b) achieving under a foreign law an effect equivalent to the effect on the depositor’s right of the operation under Jersey law of a priority provision; or

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- (c) in any other way counter-acting any prejudice that would otherwise be likely to be caused to the depositors compensation scheme by the operation of a foreign law in relation to the depositor's right.
- (2) The conditions that may be imposed under paragraph (1) include –
- (a) a condition that the depositor must take a step, in relation to the foreign law, appearing to the Board to be expedient under the foreign law to achieve recognition under the foreign law that a right of the depositor –
 - (i) has been assigned to the Board, or
 - (ii) has been given a priority, in bankruptcy or otherwise, that would not otherwise be given under the foreign law;
 - (b) a condition that a depositor must take any other step specified by the Board before compensation is paid; and
 - (c) a condition that relates to a right of the depositor, irrespective of whether that right has already vested in the Board, under any of the provisions of Articles 38 and 39 or otherwise.
- (3) For the purpose of this Article –
- (a) “priority provision” means any or all of the provisions of –
 - (i) Articles 38 to 43,
 - (ii) Article 32 of the Bankruptcy (Désastre) (Jersey) Law 1990¹⁹, and
 - (iii) any other enactment specified by the Minister by Order for the purpose of this Article;
 - (b) “foreign law” means the law of any jurisdiction other than Jersey; and
 - (c) “prejudice”, in relation to the depositors compensation scheme, includes a risk that an effect of the foreign law may be any one or more of the following –
 - (i) to increase or decrease the amount that a depositor will receive by way of compensation taken together with any equivalent of compensation under the foreign law and any other payments in respect of the deposit to which the compensation relates,
 - (ii) to prevent, delay or reduce the recovery by the Board of amounts due to it by virtue of rights assigned to it under Article 38 or 39 (whether because of the application of rules of set-off under a foreign law, or because of delay in or refusal of recognition of assignment under Article 38 or 39 or recognition of the order of priority under Article 32 of the Bankruptcy (Désastre) (Jersey) Law 1990, or for any other reason),
 - (iii) to delay the provision of any information required by the Board, or
 - (iv) otherwise to reduce the chance that any person will comply with this Law in respect of the default, or that any function will be performed effectively by or on behalf of the Board.

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- (4) For the purpose of paragraph (3)(c), the effect of a foreign law may arise in any manner, including –
- (a) because the bank in default –
 - (i) has a branch in Jersey but is established in another jurisdiction under that foreign law,
 - (ii) is a subsidiary company (within the meaning of the Banking Business Law) of a holding company (within the meaning of that Law) that is established in another jurisdiction under that foreign law, or
 - (iii) has assets held in another jurisdiction under that foreign law that are relevant in the opinion of the Board to the amount that may be recovered under rights assigned to the Board, or otherwise relevant to the operation of the depositors compensation scheme;
 - (b) because a contract relating to an eligible deposit with the bank in default states that that contract is governed by that foreign law, or the proper law of such a contract is for any other reason that foreign law; and
 - (c) because there is a difference between the law of Jersey and the foreign law, or a perception of such a difference, that may in any other manner cause relevant prejudice to the operation of the depositors compensation scheme.
- (5) Without limiting any other means by which the Board may enforce compliance with a condition imposed under this Article, the Board may –
- (a) postpone payment of compensation until the condition is met; and
 - (b) refuse to pay the compensation if the condition is not met, or if the Board is satisfied that the condition will not be met, before the expiry of the time allowed for payment by Article 18(8).

37 Assignment: interpretation

- (1) In this Article and in Articles 38 to 41 –
- “assignment”, in respect of a right held by a person, includes assignment of the right by contract to another person, vesting of the right in another person by operation of law, and assignment of the right in any other manner to another person;
- “compensatable right” means, subject to paragraph (2), a relevant right other than an excess right;
- “excess right” means a relevant right in respect of any amount of the eligible deposit that exceeds the maximum amount of compensation that may be paid to the depositor;
- “relevant right” means any right (whether under the law of Jersey or of any other jurisdiction) of an eligible depositor in respect of an eligible deposit that the depositor had with the bank in default on the relevant date, or that right as subsequently vested in any other person under this Part;

“vest” includes vesting that has effect by operation of law, as a result of assignment or in any other manner.

- (2) Paragraph (3) applies if the maximum amount of compensation that may be paid to the depositor in respect of a deposit is reduced by virtue of Article 23 or 24 (without regard to any power or duty of the Board to pay less than the maximum amount of compensation by virtue of Article 18(4) or 42(3)).
- (3) A relevant right, in respect of the amount of that eligible deposit that equals the amount of the reduction described in paragraph (2), is neither a compensatable right nor an excess right for the purpose of paragraph (1).

38 Assignment: compensatable rights

- (1) From the relevant date in respect of a bank in default, subject to paragraphs (3) to (6), an eligible depositor’s compensatable rights, in respect of deposits with that bank, are vested in the Board.
- (2) If paragraph (1) applies in respect of a deposit, the depositor must, from the date on which the Board publishes a notice announcing the application and effect of that paragraph –
 - (a) provide any assistance the Board may require to enable it to exercise a compensatable right vested in it in respect of that deposit; and
 - (b) promptly notify the Board of any amount the depositor receives, or received on or after the relevant date, in respect of the depositor’s compensatable right, and pay that amount to the Board as soon as is practicable.
- (3) The Board may include in the notice under Article 15(1) provision, in relation to the bank in default to which the notice relates, to –
 - (a) disapply paragraph (1) in respect of all deposits to which the notice relates, or in respect of any description of those deposits;
 - (b) modify the effect of paragraph (1) by substituting a different date for the vesting, instead of the relevant date; or
 - (c) announce that the Board will consider, within a period specified in the notice, whether to publish a further notice under paragraph (4).
- (4) If the Board makes an announcement under paragraph (3)(c), paragraph (1) does not apply unless and until the Board publishes, within the period specified in that announcement, a further notice specifying a date (not being earlier than the date of the publication) as the date from which paragraph (1) applies.
- (5) Paragraph (6) applies if –
 - (a) by virtue of a provision included in a notice under paragraph (3), paragraph (1) does not for the time being apply in respect of a deposit; or
 - (b) the Board considers that there is a risk that the effect of paragraphs (1) and (2), in respect of a deposit, may not be recognized under the law of another jurisdiction, being a

jurisdiction that may have some relevance to the operation of the depositors compensation scheme.

- (6) The Board may postpone payment of any compensation in respect of the deposit until the depositor enters into –
 - (a) a written agreement with the Board that paragraphs (1) and (2) are to apply in respect of the deposit; or
 - (b) a contract, under the law of Jersey or of another jurisdiction, that contains provisions having effect equivalent, to the satisfaction of the Board, to the effect of applying paragraphs (1) and (2) in respect of the deposit.
- (7) If the depositor enters into a written agreement or contract under paragraph (6) –
 - (a) the depositor must provide any assistance the Board may require to enable it to exercise the compensatable rights vested by the agreement; and
 - (b) the depositor must promptly notify the Board of any amount the depositor receives, or received on or after the relevant date, in respect of that depositor's compensatable rights, and pay that amount to the Board as soon as is practicable.
- (8) Without prejudice to the generality of Article 17(1)(b), the Board must pay into the compensation fund in respect of the bank in default –
 - (a) any amount paid to it under a compensatable right vested in it under this Article; and
 - (b) any amount paid to it under paragraph (2)(b) or (7)(b).

39 Assignment: excess rights

- (1) The Board may exercise its power under paragraph (2), (3)(a) or (6) if the Board considers that it is expedient to do so –
 - (a) in order to counter-act any prejudice (within the meaning of Article 36(3)(c)) that appears to the Board to be likely to be caused to the operation of the depositors compensation scheme by an effect of a foreign law, if the power is not exercised;
 - (b) in order to achieve, in any other respect, an effect closer to the effect of the order of priority under Article 32 of the Bankruptcy (Désastre) (Jersey) Law 1990²⁰, or to the effect of Article 42 or 43(5) of this Law;
 - (c) in order to achieve more timely payment of compensation to some or all eligible depositors; or
 - (d) for any other reason related to the better performance of the Board's functions.
- (2) Paragraph (4) applies, from a date specified in the notice published under Article 15(1), if the Board includes provision to that effect in that notice –
 - (a) to all deposits with the bank in default to which the notice relates; or
 - (b) to any description of such deposits as is specified in the notice.

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- (3) At any time at which the condition in paragraph (2) is not met in relation to a deposit, paragraph (4) nevertheless applies –
 - (a) to any deposit held by an eligible depositor on whom the Board serves a notice to that effect, or to any description of such deposits specified in such a notice, from a date specified in the notice; and
 - (b) to any deposit held by an eligible depositor who enters into –
 - (i) a written agreement with the Board that paragraph (4) is to apply in respect of that deposit, from a date specified in the agreement, or
 - (ii) a contract, under the law of Jersey or of another jurisdiction, that contains provisions having effect equivalent, to the satisfaction of the Board, to the effect of applying paragraph (4) to that deposit from a date specified in the contract.
 - (4) If this paragraph applies to a deposit, then, from the date specified under paragraph (2) or (3) –
 - (a) any excess right of an eligible depositor in respect of that deposit is vested in the Board; and
 - (b) the depositor must –
 - (i) provide any assistance the Board may require to enable it to exercise the excess right so vested, and
 - (ii) promptly notify the Board of any amount the depositor receives, or received on or after the relevant date, in respect of the excess right, and pay that amount to the Board as soon as is practicable.
 - (5) Paragraph (6) applies if –
 - (a) paragraph (4) does not for the time being otherwise apply to a deposit, in relation to which the depositor has an excess right; or
 - (b) the Board considers that there is a risk that the effect of paragraph (4)(a), on an excess right in relation to a deposit, may not be recognized under the law of another jurisdiction, being a jurisdiction that may have some relevance to the operation of the depositors compensation scheme.
 - (6) The Board may –
 - (a) postpone payment of any compensation in respect of the deposit until the depositor enters into an agreement or contract under paragraph (3)(b)(i) or (ii); and
 - (b) treat that depositor as ineligible if the depositor fails to enter into such an agreement or contract within a time specified by the Board in writing in a notice to the depositor.
 - (7) Without prejudice to the generality of Article 17(1)(b), the Board must pay into the compensation fund in respect of the bank in default –
 - (a) any amount paid to it under an excess right vested in it under this Article; and
 - (b) any amount paid to it under paragraph (4)(b)(ii).

40 Assignment: general

- (1) If a right to an amount is vested in the Board under Article 38 or 39, the Board may, by issuing a notice under paragraph (2), assign that right to that amount (subject to Article 43(5) to (7)), in whole or in part –
 - (a) to the eligible depositor from whom it was assigned to the Board; or
 - (b) to any other person, if the Board is satisfied that the assignment, or any arrangements made by the Board in connection with the assignment, will assist the Board to –
 - (i) comply with its duties under Articles 42 to 44,
 - (ii) counter-act any prejudice otherwise likely to be caused to the operation of the depositors compensation scheme by an effect of a foreign law, within the meaning of Article 36, or
 - (iii) achieve, in any other respect, an effect closer to the effect of the order of priority under Article 32 of the Bankruptcy (Désastre) (Jersey) Law 1990²¹.
- (2) In respect of an assignment of a right under paragraph (1) –
 - (a) it is irrelevant whether the Board issues the notice before, on or after paying compensation;
 - (b) the notice must specify the right assigned and the date (being a date after the issuing of the notice and before the completion of the compensation exercise) on which the right is to vest in the person to whom it is assigned (“the assignee”);
 - (c) the Board may issue the notice –
 - (i) in respect of a particular eligible deposit, by giving the notice to the depositor who held the right before it vested in the Board, to the assignee and to the responsible person in respect of the bank in default, or
 - (ii) in respect of all eligible deposits, or of any description of eligible deposits, or of a particular eligible deposit, by publishing the notice and giving it to the responsible person; and
 - (d) the notice may include –
 - (i) provision as to subordination of all or any part of the right assigned to all or any part of any rights retained by the Board, or subordination of all or any part of any rights retained by the Board to all or any part of the right assigned, and
 - (ii) provision that that subordination is to have effect as if effected by contract, or by variation of the order of priority under any enactment, or in any other manner; and
 - (e) the right assigned vests in the assignee on the date specified in the notice, and subject to any subordination applied by the notice.
- (3) A notice under paragraph (2), if published under paragraph (2)(c)(ii), may specify either or both of –

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- (a) a description of a class of persons who are the assignees, instead of specifying the assignees; and
 - (b) a formula or other means for calculating or otherwise ascertaining the right assigned to each assignee, instead of specifying the right assigned to each assignee.
 - (4) For as long as a right remains vested in the Board under Article 38 or 39, that right is to be treated (notwithstanding any provision otherwise of any enactment, contract, rule of customary law, law of another jurisdiction, or other law) as if it were not subject to any other right of any other person, if under Article 22(2) no account is to be taken of that other right in calculating the amount of compensation.
 - (5) If a depositor fails to comply with an obligation imposed by Article 38 or 39, or an obligation arising from a written agreement entered into under Article 38(6)(a) or 39(3)(b)(i), the Board –
 - (a) may enforce the obligation –
 - (i) in respect of payment of money, as a civil debt, and
 - (ii) in any other respect, by application to the Royal Court for an injunction requiring compliance with the obligation; and
 - (b) may postpone payment of any amount to the depositor (whether by way of compensation or otherwise) until the depositor complies with the obligation.
 - (6) Without prejudice to the generality of the references to assistance in Articles 38(2)(a), (7)(a) and 39(4)(b)(i), the assistance that the Board may require under those Articles includes the taking of any step that the Board considers would assist in achieving –
 - (a) an assignment of a relevant right, being an assignment –
 - (i) that has effect under the law of a foreign jurisdiction, and is in accordance with any formalities required by that foreign law, including any formalities for an assignment that does not have effect by operation of a statute, and
 - (ii) the effect of which is recognized under that foreign law even if the effect of Article 38 or 39 is not so recognized;
 - (b) recognition under the law of a foreign jurisdiction of the effect of any one or more of Article 38, Article 39, this Article and the order of priority under Article 32 of the Bankruptcy (Désastre) (Jersey) Law 1990; or
 - (c) any other effect under the law of a foreign jurisdiction that is equivalent to the effect of any such provision.
 - (7) Without prejudice to the generality of paragraph (6), the steps that the Board may require the depositor to take include entering into a contract, under the law of Jersey or of another jurisdiction, that contains provisions that the Board considers would assist in achieving a result described in any of paragraphs (6)(a) to (c).
 - (8) Nothing in a contract entered into, or other instrument produced, by way of assistance described in paragraph (6), is to be read –

- (a) as an admission by the Board that any right has not vested in the Board by virtue of this Law; or
- (b) as in any way preventing or limiting such vesting.

41 Assignment: Board as creditor

- (1) This Article applies if any depositor's rights in respect of a depositor's eligible deposit with a bank in default have been vested in the Board.
- (2) For the avoidance of doubt, the Board –
 - (a) may participate in the nomination of a person to sit upon any creditors' committee or committee of inspection of the bank in default;
 - (b) may require that it be sent any notice addressed to creditors of the bank; and
 - (c) may nominate a person to attend and vote at a creditors' meeting.
- (3) For the avoidance of doubt, for the purpose of paragraph (2), the Board is to be taken to be a creditor of the bank in default –
 - (a) with the priority of a depositor with the bank; and
 - (b) to the total value of any depositors' rights that have been vested in the Board.
- (4) This Article is without prejudice to any other right of the Board, or to any other manner in which the Board is to be treated, by virtue of the vesting in the Board of the right of the depositor.

PART 6

PRIORITY AND COMPLETION OF EXERCISE

42 Order of priority and timing of payments out of compensation fund

- (1) Subject to Article 34, the order of priority for payments out of a compensation fund is –
 - (a) payment by way of adjustment under Article 32(6)(b);
 - (b) payment of default-related administrative costs;
 - (c) payment of compensation;
 - (d) payment to each depositor whose excess rights were vested in the Board under Article 39, of the amount in respect of which that depositor's excess rights were so vested;
 - (e) repayment of any States loan;
 - (f) repayment, to each bank that paid a compensation levy in relation to the fund, of the amount so paid.
- (2) In making any payments out of the compensation fund at any time the Board must seek to ensure that, on the completion of the compensation exercise, the order of priority will have been satisfied.

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- (3) In making payments of compensation at any time the Board must in addition seek to ensure that, on the completion of the compensation exercise, if there will have been insufficient money in the compensation fund to pay the maximum amount of compensation to every eligible depositor, the total amount paid in compensation in respect of each eligible depositor will have been reduced –
 - (a) by a proportional amount, disregarding any deduction under Article 23 or 24, calculated in such a manner as appears appropriate to the Board; or
 - (b) in such other manner as the Board considers to be equitable in the circumstances.
 - (4) Subject to paragraphs (2) and (3), the Board –
 - (a) may make a payment of default-related administrative costs at a time before a payment by way of adjustment under Article 32(6)(b); and
 - (b) may make a payment of compensation at a time before either or both of –
 - (i) a payment by way of adjustment under Article 32(6)(b), and
 - (ii) a payment of default-related administrative costs; and
 - (c) without prejudice to the generality of sub-paragraph (b), may take account of the need, charitable status or other characteristics of a depositor, or of any other factor rendering it more or less difficult to assess or pay compensation to a depositor, in deciding to assess or pay compensation for that depositor at a time before assessment or payment in respect of any other depositor.
 - (5) In respect of each of sub-paragraphs (d) to (f) of paragraph (1), the Board –
 - (a) must not make any payment under that sub-paragraph unless money remains in the compensation fund after the Board has paid in full all of the amounts described in the sub-paragraphs of paragraph (1) that precede that sub-paragraph; and
 - (b) must apply any money remaining in the compensation fund to payment under that sub-paragraph, subject to paragraphs (6) to (8).
 - (6) The total amount paid under paragraph (1)(d) must not exceed, despite Article 17(4), the amount by which the total amount paid into the compensation fund under Articles 38(8) and 39(7) exceeded the total amount of all compensation paid by the Board.
 - (7) If the remaining money, or the amount of that money that is available under paragraph (6), is insufficient for the Board to make payment in full under paragraph (1)(d), the Board must reduce payment to each depositor under paragraph (1)(d) –
 - (a) by a proportional amount, calculated in such a manner as appears appropriate to the Board; or
 - (b) if the Board considers that it is appropriate in a particular default, whether for operational or other reasons, to depart from the general

rule in sub-paragraph (a), in such other manner as the Board considers to be appropriate.

- (8) If the remaining money is insufficient for the Board to make payment in full under paragraph (1)(f), the Board must reduce payment to each bank –
- (a) in proportion to the amount of levy paid by each bank; or
 - (b) in such other manner as the Board considers to be appropriate in the circumstances.

43 Winding up of compensation exercise

- (1) The Board must complete payment of its default-related administrative costs within 5 years after the relevant date in relation to the default.
- (2) The “winding up date” for the purpose of this Article is the date, being less than 5 years after the relevant date in relation to a default, on which the Board is first satisfied as to all of the following, namely –
- (a) that it has completed payment of its default-related administrative costs;
 - (b) that it has repaid the full amount due in respect of any States loan, or that it will be able to do so from receipts of compensation levy falling to be paid in the future in respect of the default;
 - (c) that it is unlikely to receive any further payments of compensation levy, other than any taken into account under sub-paragraph (b); and
 - (d) that it is unlikely to receive any further payments under rights vested in it under Article 38 or 39.
- (3) As soon as practicable after the winding up date the Board must assess and make –
- (a) any outstanding further payments of compensation, up to the maximum amount of compensation for each eligible depositor, under Article 18(6) and subject to Articles 18(8) and 42(3);
 - (b) any payments to depositors under Article 42(1)(d); and
 - (c) any repayments to banks under Article 42(1)(f), if it has repaid the full amount due in respect of any States loan.
- (4) Paragraph (5) applies if, on the winding up date, the Board still holds a right in respect of any amount, being a right that –
- (a) was assigned to it under Article 38 or 39; and
 - (b) has not been realized.
- (5) The Board must, as soon as practicable after the winding up date, assign the right in the following order and in respect of the following amounts –
- (a) first, if amounts of compensation paid to depositors were reduced under Article 42(3), to those depositors in respect of the amounts of those reductions;

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- (b) second, if payments were due to depositors under Article 42(1)(d) but were not made in full, to those depositors in respect of the amounts remaining unpaid; and
 - (c) third, if any States loan was not repaid in full by the winding up date, to the States in respect of the amount remaining unpaid;
 - (d) fourth, if the banks that paid a compensation levy in relation to the fund were not repaid in full under Article 42(1)(f), to those banks in respect of the amounts remaining unpaid.
- (6) For the purposes of the sub-paragraphs of paragraph (5) the Board must –
- (a) before assigning a right under any sub-paragraph, satisfy itself that it can comply in full with each sub-paragraph preceding that sub-paragraph; and
 - (b) in assigning rights to persons under a sub-paragraph with which it cannot comply in full, assign the rights to amounts proportionally or in such other manner as the Board considers to be appropriate in the circumstances.
- (7) In carrying out its functions under paragraphs (5) and (6) and under Article 40(1), the Board must ensure that, in respect of every depositor from whom an excess right was assigned to the Board under Article 39, no later than the completion of the compensation exercise and as soon as will not prejudice the operation of the depositors compensation scheme –
- (a) the payment amount equals the taken rights amount; or
 - (b) if the payment amount is less than the taken rights amount, the returned rights amount equals the difference between the payment amount and the taken rights amount.
- (8) For the purpose of paragraph (7) –
- (a) the “payment amount” is the total of the amounts paid to the depositor as compensation or as any other form of payment under this Law or under any agreement under this Law;
 - (b) the “taken rights amount” is the total of the amounts in respect of which compensatable or excess rights of the depositor were assigned to the Board from that depositor; and
 - (c) the “returned rights amount” is the total of the amounts in respect of which rights have been assigned to the depositor by the Board under paragraph (5) or under Article 40(1) (whether those rights were assigned to the Board from that depositor or from any other person).
- (9) For the purposes of the sub-paragraphs of paragraph (5), the power of the Board to assign rights vested in the Board is not to be read as limited by reference to the source of those rights before they were vested in the Board, and accordingly, without prejudice to paragraph (5) –
- (a) a depositor from whom a right was assigned to the Board is not entitled to assignment of all or any part of that right;
 - (b) a right may be assigned to a depositor, or to the States or to a bank as the case may be, irrespective of whether the right was assigned

- to the Board from another depositor, to comply with the relevant sub-paragraph;
- (c) rights to amounts may be assigned by the Board as parts of the rights held by the Board, without specifying the depositor from whom the rights were assigned to the Board;
 - (d) rights to amounts may be assigned to depositors (or to banks as the case may be) by reference to a description of depositor and a formula as to the amount, without identifying each depositor or specifying each amount.
- (10) The Board –
- (a) may comply with paragraph (3) or (5) before, on or after the primary payment date (within the meaning of Article 18), but must do so no later than 5 years after the relevant date in respect of the default; and
 - (b) must, in making any assignment under Article 40(1) at any time before the winding up date, seek to ensure that it will, on the completion of the compensation exercise, have complied with paragraph (5).

44 Completion of compensation exercise

- (1) The Board must, as soon as practicable after it has complied with Article 43(3) and (5), publish a notice declaring the completion of the compensation exercise for that default.
- (2) As soon as practicable after the Board has declared the completion of the compensation exercise, the Board must –
 - (a) prepare accounts for the period from the relevant date to the completion of the compensation exercise;
 - (b) have those accounts audited by an auditor, as defined by Article 102(1) of the Companies (Jersey) Law 1991²²;
 - (c) prepare a report containing –
 - (i) details of the Board's activities in relation to the bank in default over the period described in sub-paragraph (a), and
 - (ii) such other information as the Minister may direct the Board to provide; and
 - (d) provide the Minister with the audited accounts and the report.
- (3) The Minister must lay the accounts and report before the States as soon as practicable after receiving them.

PART 7

INFORMATION

45 General duty of Board in relation to information

The Board must exercise its functions under this Part, and under Articles 16 and 30, with a view in particular to –

- (a) obtaining directly from banks information that –
 - (i) is timely, accurate and comprehensive, and
 - (ii) is necessary for the Board to carry out its functions under this Law; and
- (b) sharing, with persons in Jersey or elsewhere, information that –
 - (i) is timely, accurate and comprehensive, and
 - (ii) enables those persons to carry out functions that they have in relation to a bank in default, to the depositors compensation scheme or to an overseas compensation scheme.

46 Standard statements

- (1) The Board may publish a standard for statements about the depositors compensation scheme, for use in advertisements, account statements or other documents or publicity produced by or on behalf of those banks for depositors or potential depositors.
- (2) Without prejudice to the generality of Articles 19A and 20 of the Banking Business Law –
 - (a) a code of practice may require compliance with a standard published under paragraph (1); and
 - (b) an Order under Article 20 of the Banking Business Law may require compliance with such a standard relating to deposit advertisements.
- (3) The Board may, in relation to a standard published under paragraph (1) –
 - (a) make different provision for different cases or purposes;
 - (b) provide for exceptions to the standard in specified circumstances, subject to specified conditions, or at the discretion of the Board; and
 - (c) amend or revoke the standard.
- (4) The Board must, when publishing a standard under paragraph (1) or an amendment or revocation under paragraph (3)(c) –
 - (a) do so in a manner that, in the opinion of the Board, is likely to bring the publication to the attention of banks affected by it; and
 - (b) notify the Commission and the Minister of the publication.
- (5) The States may by Regulations amend paragraphs (1) to (4), to substitute other provision as to statements to be made in connection with the depositors compensation scheme.

47 Format of and access to information held by banks

- (1) Article 26 (other than paragraph (7)) of the Banking Business Law applies in relation to this Law –
 - (a) with the substitution, for references to the Commission, of references to the Board; and
 - (b) with the substitution, for references to the Banking Business Law, of references to this Law.
- (2) Without prejudice to the generality of paragraph (1) and to Articles 16 and 30, the Board may at any time serve a notice on a bank under Article 26 of the Banking Business Law, as applied by paragraph (1), requiring the bank to provide the Board with information consisting of a statement of the bank's relevant holding (within the meaning of Article 30) as at a time specified in the notice.
- (3) The Board may, by a published notice –
 - (a) designate a format that may be used by a bank, or by banks of a description specified in the notice, when providing to the Board any relevant data, or relevant data of any description specified in the notice; or
 - (b) after consulting the Minister, designate a format (a “mandatory format”) that must be used by a bank, or by banks of a description specified in the notice, when providing such data to the Board.
- (4) If the Board designates a mandatory format, a person exercising a power under Article 26 of the Banking Business Law, as applied by this Article, may –
 - (a) make such arrangements as are convenient to ensure that any of the bank's relevant data, to which the mandatory format relates, can be provided promptly and accurately in the mandatory format; and
 - (b) if necessary to enable prompt and accurate provision in the mandatory format, make arrangements that alter the format in which data are held by the bank.
- (5) Nothing in paragraph (4) limits any power of the Board under paragraph (1) or (2) in relation to information of any description.
- (6) For the purpose of paragraphs (3) and (4), “relevant data” means information that –
 - (a) relates to eligible deposits held by the bank;
 - (b) is relevant to the raising of a levy or to any other matter connected with the functions of Board or any other person under this Law, or connected with the operation of the depositors compensation scheme; and
 - (c) is held by, or is to be provided by, the bank as an electronic record within the meaning of the Electronic Communications (Jersey) Law 2000²³.

48 Restricted information

- (1) Articles 42 to 45 of the Banking Business Law, other than Article 45(1)(e), apply in relation to this Law –
 - (a) with the substitution, for references to the Commission, of references to the Board;
 - (b) with the substitution, for references to the Banking Business Law, of references to this Law; and
 - (c) with the substitution in Article 45(2)(a), for the reference to Articles 26, 28 or 30, of a reference to Articles 26(1) to (3), (5) and (13) to (15) as applied by Article 47(1) of this Law.
- (2) Without prejudice to the generality of Articles 43, 44 and 45 of the Banking Business Law, as applied by paragraph (1), Article 42 of that Law as so applied does not preclude the disclosure of information by the Board to –
 - (a) the responsible person in respect of a bank in default, if the information concerns the bank;
 - (b) the Minister, if the information concerns the administration and operation of the depositors compensation scheme;
 - (c) the Commission, for the purpose of enabling or assisting the Commission or the Board to discharge its functions under the Banking Business Law or this Law; or
 - (d) any person, for the purpose of obtaining advice on the performance by the Board of its functions.

49 Other offences related to information

- (1) Article 22(1) of the Banking Business Law applies in relation to this Law with the substitution, for references to the Commission, of references to the Board.
- (2) A person commits an offence if, after applying to the Board for compensation, the person knowingly fails to inform the Board of any subsequent event that reduces the amount of compensation that may be claimed.
- (3) A person who commits an offence under Article 22(1) of the Banking Business Law as applied by paragraph (1), or under paragraph (2), is liable to a fine and to imprisonment for a term of 2 years.

PART 8

MISCELLANEOUS AND FINAL PROVISIONS

50 Appeals

- (1) A person who is dissatisfied with a decision of the Board –
 - (a) that the person is not entitled to compensation;

- (b) in respect of the amount of the compensation to which the person is entitled; or
 - (c) not to exercise its power, under Article 20(3)(b), to accept the person's late application for compensation,
- may appeal to the Royal Court against the decision on the ground that, on the facts available to the Board, its decision was unreasonable.
- (2) A bank that is dissatisfied by a decision of the Board requiring the bank to pay an annual administration levy or a compensation levy may appeal to the Royal Court against the decision on the grounds that –
 - (a) the bank is not liable to pay the levy;
 - (b) the Board has miscalculated the amount of the levy or any instalment of the levy that the bank is required to pay; or
 - (c) the Board has miscalculated the date on which the levy or any instalment of the levy becomes payable.
 - (3) Unless the Royal Court otherwise directs, an appeal by a bank under paragraph (2) does not suspend the operation of a notice sent to the bank under Article 27.
 - (4) On an appeal under this Article, the Royal Court may make any order it considers appropriate.
 - (5) A reference in this Article to miscalculation includes miscalculation by virtue of a decision to treat any costs as recurring administrative costs or as default-related administrative costs, if that decision is unreasonable having regard to all the circumstances of the case.
 - (6) If a decision is made on behalf of the Board, the person dissatisfied with the decision may not appeal to the Royal Court under this Article until –
 - (a) that person has requested, in writing, the Board to review the decision; and
 - (b) the Board has reviewed the decision, or 6 weeks have elapsed since the request, whichever is the sooner.
 - (7) Nothing in this Article is to be read as limiting the Board's power to reconsider its own decisions.
 - (8) No appeal may be made under this Article later than 1 year from the date on which the person appealing became aware of the decision appealed against (irrespective of whether paragraph (6) applies or not).

51 Criminal responsibility

- (1) In this Article –
 - “relevant offence” means an offence under this Law, or under the Banking Business Law as applied by this Law, that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
 - “relevant person” means –
 - (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;

- (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of the partnership;
 - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
 - (i) a director, manager, secretary or other similar officer of the body corporate, and
 - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and
 - (d) a person purporting to act in any capacity described in subparagraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) If a relevant offence –
- (a) is an offence that may be committed by neglect; and
 - (b) is proved to be attributable to any neglect on the part of a relevant person,
- that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

52 Repeals

The following enactments are repealed –

- (a) Article 37 of the Banking Business (Jersey) Law 1991²⁴; and
- (b) the Banking Business (Depositors Compensation) (Jersey) Regulations 2009²⁵.

53 Amendment of Bankruptcy (Netting, Contractual Subordination and Non-Petition Provisions) (Jersey) Law 2005

After Article 6 of the Bankruptcy (Netting, Contractual Subordination and Non-Petition Provisions) (Jersey) Law 2005²⁶ there is inserted the following Article –

“6A Bank depositors compensation schemes

The application of this Law in respect of bank deposits to which a depositors compensation scheme under the Bank Depositors Compensation (Jersey) Law 201-²⁷ relates, is subject to any provision of or under that Law.”

54 Amendment of Income Tax (Jersey) Law 1961

In the Income Tax (Jersey) Law 1961²⁸ –

- (a) in Article 3(1) after the definition “international activities” there is inserted the following definition –
 - “ ‘Jersey Bank Depositors Compensation Board’ means the Jersey Bank Depositors Compensation Board established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009²⁹ and continued in existence by the Bank Depositors Compensation (Jersey) Law 201^{-30;}”;
- (b) in Articles 62C, 70B and 115(p) the words “established by the Banking Business (Depositors Compensation) (Jersey) Regulations 2009” are deleted;
- (c) in Article 115(q) for the words “compensation paid under the Banking Business (Depositors Compensation) (Jersey) Regulations 2009” there are substituted the words “sum paid under the Bank Depositors Compensation (Jersey) Law 201⁻³¹”.

55 Powers to make other amendments

- (1) The States may, by Regulations, amend –
 - (a) any provision of Part 3, 4 or 6; and
 - (b) any definition contained or referred to in Article 1 or 4, as that definition applies for the purpose of any provision amended under sub-paragraph (a).
- (2) The States may, by Regulations, amend any enactment other than this Law for the purpose of making such transitional, consequential, incidental, supplementary or savings provisions as they consider necessary or expedient in respect of any provision made by or under this Law.
- (3) Paragraph (4) applies if an enactment (the “resolution enactment”) –
 - (a) having been lodged as a proposition before the date on which this Law is adopted by the States, comes into force after that date but no later than 1 year after the commencement of this Law; and
 - (b) makes –
 - (i) provision for a resolution procedure, within the meaning of Article 15, to be conducted in Jersey,
 - (ii) provision about bankruptcy specifically in relation to banks, or
 - (iii) provision falling within both clauses (i) and (ii).
- (4) The Minister may by Order, coming into force no later than 1 year after the commencement of this Law –
 - (a) amend the resolution enactment to substitute, for a reference to an enactment repealed by Article 52, a reference to a provision of this Law; and

- (b) amend any provision of this Law in any manner appearing to the Minister to be necessary or expedient to render this Law consistent with the resolution enactment, or otherwise in connection with giving effect to the resolution enactment.

56 Regulations and Orders: transitional and other provisions

An Order or Regulations under this Law may contain such transitional, consequential, incidental, supplementary or savings provisions, including an amendment of any other provision of this Law, as appear to the Minister or the States (as the case may be) to be necessary or expedient for the purposes of the Order or Regulations.

57 Citation and commencement

This Law may be cited as the Bank Depositors Compensation (Jersey) Law 201- and comes into force 7 days after it is registered.

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- 1 *chapter 13.075*
 - 2 *chapter 13.125*
 - 3 *chapter 13.075.30*
 - 4 *chapter 13.250*
 - 5 *chapter 13.075.50*
 - 6 *chapter 15.560*
 - 7 *chapter 15.070*
 - 8 *chapter 24.750*
 - 9 *chapter 13.075.30*
 - 10 *chapter 13.125*
 - 11 *chapter 04.160*
 - 12 *chapter 15.350*
 - 13 *chapter 13.125*
 - 14 *chapter 24.900*
 - 15 *chapter 08.785*
 - 16 *chapter 08.770*
 - 17 *chapter 08.300*
 - 18 *chapter 17.245*
 - 19 *chapter 04.160*
 - 20 *chapter 04.160*
 - 21 *chapter 04.160*
 - 22 *chapter 13.125*
 - 23 *chapter 04.280*
 - 24 *chapter 13.075*
 - 25 *chapter 13.075.30*
 - 26 *chapter 04.165*
 - 27 *P.135/2016*
 - 28 *chapter 24.750*
 - 29 *chapter 13.075.30*
 - 30 *P.135/2016*
 - 31 *P.135/2016*