

# Jersey's Depositor Compensation Scheme

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Draft regulations were published in June for the establishment of a depositor compensation scheme for accounts held in banks in Jersey. The draft **Banking Business (Depositors Compensation) (Jersey) Regulations 200-** and various supplemental regulations are expected to come into force this summer. The stated aim of the proposed scheme is to provide depositors with compensation quickly in the unlikely event of a bank failure and thus to minimise hardship by enabling depositors to carry on with their everyday economic activities.

The regulations provide for the establishment of a permanent, standalone scheme administered by an independent board. The scheme will be activated in the event that a Jersey bank becomes bankrupt. The overall liability of the scheme will be capped at £100 million over each five year period and will be funded by capped levies on the banks in Jersey that hold eligible deposits at the time that the bank in default became bankrupt. The States of Jersey will make up any shortfall in funding and provide

short term liquidity, possibly through loans to the scheme.

Consequential amendments will be made to the Island's income tax law to allow tax deduction of contributions made by banks to the scheme and to exempt from income tax compensation paid to depositors under the scheme.

## COMPENSATION LIMITS

Private individuals, whether resident in Jersey or not, will be able to claim up to £50,000 per person, per Jersey banking group affected. Executors will also be able to claim in respect of the deceased individual's estate. Charities will be protected too although partners of a partnership will not. The first £5,000 of a valid claim will be paid within seven working days with the balance payable within three months.

If the depositor is entitled to claim compensation under a scheme in another jurisdiction (for

instance, the home jurisdiction of the bank in default), the depositor will not be able to claim under the Jersey scheme except to the extent that the Jersey board agrees with the body administering the compensation scheme in that jurisdiction.

In any event, the amount of compensation that may be claimed from the Jersey scheme may also be reduced by the amount received by the depositor from an insurance policy or from the administrators of the bank in default. The board will acquire rights of subrogation from the depositor to enable it to claim as a creditor in the defaulting bank's insolvency.

## **TOP 500 BANKING GROUPS**

With 46 banks and deposits of over £195 billion in Jersey as at March 2009, the authorities must expect that the strict licensing policy for deposit-taking business in the Island will continue to minimise the likelihood of a bank in Jersey failing. Historically successful applicants had to be part of financial institutions of international stature and reputation, and specifically had to be members of the global "top 500" banking groups by reference to their Tier 1 capital base, or financial services conglomerates of equivalent size. That requirement remains but a new, strengthened and consolidated licensing policy was issued by the Jersey Financial Services Commission (the "Commission") in June.

## **LICENSING POLICY**

When the Commission determines whether or not new applicants are fit and proper persons to be registered for deposit-taking business under the Island's banking laws, it considers a number of key areas which are set out in detail in the licensing policy under the following headings: general, stature, home jurisdiction, competence, organisation and systems, and ownership and control. A detailed examination of each of these requirements is outside the scope of this article.

However, some additional requirements reflecting the banking crisis have been introduced. These include a requirement that applicants belong to a group that is of systemic importance in its home jurisdiction such that, in a crisis, the home jurisdiction would look to actively support the group and that, in turn, the relevant jurisdiction is capable of providing adequate support, if needed, to its systemically important banks.

Of course the home jurisdiction must be considered to operate an adequate regime of financial supervision, taking into account relevant reports such as those produced by the IMF as well as responses to the Commission's own enquires in respect of the home supervisor's adherence to the Basel Committee's Core Principles for Banking Supervision.

The numerous requirements which must be fulfilled before an applicant is registered (or re-registered) for deposit-taking business and the high degree of financial reporting to and supervision by the Commission should continue to protect Jersey's excellent reputation as a banking centre.

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