

UPDATE

# Amendments to Guernsey's Banking Deposit Compensation Scheme

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Changes have been made to Guernsey's Banking Deposit Compensation Scheme in order to, among other things, reflect compliance with certain of the core principles issued by the International Association of Deposit Insurers (IADI). While those core principles are not mandatory, compliance with them is considered to 'stand the Bailiwick in good stead in future international reviews by parties such as the International Monetary Fund (IMF)'.

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The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008 (the **BDCS**) established a Guernsey depositor compensation scheme (the **Scheme**) to protect *qualifying deposits* (being mainly those from personal retail depositors) up to a compensatory amount of £50,000 for each qualifying depositor in the event of a Guernsey licensed bank (a **Guernsey Bank**)'s failure.

A full list of participating Guernsey Banks can be found [here](#).

The BDCS has recently been amended by the Banking Deposit Compensation Scheme (Bailiwick of Guernsey) (Amendment) Ordinance, 2020 (the **2020 Ordinance**), as follows:

## 1 Clarification with regards to the appointment and maintenance of members of the Board

The Scheme is administered independently by the Guernsey Banking Deposit Compensation Board (the **Board**), which is separate from both the Guernsey Financial Services Commission and the States of Guernsey, and consists of a chairman and up to four ordinary members.

While the States of Guernsey's Committee for Economic Activity (the **Committee**) is responsible for the appointment and in certain circumstances the dismissal of members of the Board, members' terms of appointment were, prior to the 2020 Ordinance, as negotiated with the Committee (and as such did not have any statutory footing). Under the 2020 Ordinance, the intention is that members' terms and conditions of appointment, including the requirement to serve a notice period, are the responsibility of the Committee therefore removing any ambiguity and giving those provisions statutory force.

## 2 Allowing for a negative interest rates

Whilst negative interest rates were not generally applied in the banking sector when the BDCS was enacted back in 2008 and as such the BDCS did not legislate for this possibility meaning that depositors could end up being paid more than their account was actually worth, at the expense of the Guernsey Banks, negative interest rates are much more common now.

The 2020 Ordinance addresses this by confirming that each of the administration fund and compensation fund (each as established under the BDCS) can attract a negative interest rate in respect of monies held. It also confirms that the compensation to which a claimant may be entitled shall also be reduced by any amount at the discretion of the Board, which represents an appropriate deduction representative of any negative interest rate which may have been applied to a qualifying deposit before a declaration of default has been made in relation to their deposit.

### 3 Changing the aggregate cap on contribution to a compensation levy

The maximum aggregate payment for any one calendar year by a Guernsey Bank by way of contribution to a compensation levy has been raised from £1,000,000 to £2,000,000 to ease funding pressure on the Scheme and the previous three year profits cap of 50 per cent has been removed (as it's no longer considered appropriate particularly where banks are, more commonly, parts of larger international groups which are often profitable where domestic subsidiaries or branches are not).

### 4 Timescales for payment of compensation levies

Where the Board imposes a compensation levy, the date on which the payment is due has been accelerated from 14 days to **five** working days.

### 5 Co-operation and obligations of Guernsey Banks

Whilst previously inferred, Guernsey Banks are now explicitly required to promptly provide the Board with any requested documents or information, including personal data of claimants (subject to the Data Protection (Bailiwick of Guernsey) Law, 2017), so that it can carry out its functions under the Scheme.

These changes are effective from 21 May 2020.

## Contacts

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