

STATES OF JERSEY



DRAFT PUBLIC FINANCES (DEPOSITORS COMPENSATION) (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 2nd June 2009
by the Minister for Treasury and Resources**

STATES GREFFE



Jersey

DRAFT PUBLIC FINANCES (DEPOSITORS COMPENSATION) (JERSEY) REGULATIONS 200-

REPORT

The attached Regulations are issued under the auspices of Article 23 of the Public Finances (Jersey) Law 2005 and should be read in conjunction with the Banking Business (Depositors Compensation) (Jersey) Regulations 200- and the Banking (Depositors Compensation) (Jersey) Regulations 200- lodged by the Minister for Economic Development.

Background

The Banking Business (Depositors Compensation) (Jersey) Regulations 200- presented by the Minister for Economic Development propose the establishment of a separately constituted and independent Board responsible for the administration of the proposed Depositor Compensation Scheme.

These Regulations, under the auspices of the Public Finances (Jersey) Law 2005, enable and authorise the Minister for Treasury and Resources to lend to this Board to enable the Board to discharge its responsibilities.

The fact that these Regulations are being brought forward for States consideration should not be seen as any indication that a Jersey registered bank is likely to fail at any time in the future. The Regulations have been drafted to ensure that should a bank be declared bankrupt the States could act swiftly to assist those affected.

Indeed these Regulations will only ever come into effect if a bank fails and a “relevant date” for such is published under Regulation 16 of the Banking Business (Depositors Compensation) (Jersey) Regulations 200-.

Article 23 of the Public Finances (Jersey) Law 2005 (the Finance Law) sets the procedures which must be followed when States money is lent to third parties.

Article 23(2) sets the maximum limit which the States may lend, at any one time, to a sum equivalent to 15% of the estimated income from taxation during the previous financial year. At the end of December 2008, States lending equated to £25.3 million or approximately 4% of total taxation income for 2008.

Regulation 1

Regulation 1 would enable the 15% limit to be increased to 33% should a relevant date be published under Regulation 16 of the Banking Business (Depositors

Compensation) (Jersey) Regulations 200-. This 20% increase would enable the States to make a maximum loan of £100 million to the Depositors Compensation Scheme Board should there be a proven need.

Regulation 2

This Regulation empowers the Minister to lend money out of the consolidated fund to the Jersey Bank Depositors Compensation Board up to a maximum £100 million on such terms and conditions as he/she may determine without further recourse to the States. The £100 million is the maximum sum which could be required to meet the obligations set under the Banking Business (Depositors Compensation) (Jersey) Regulations 200-.

If a loan is advanced from the consolidated fund the Minister is obligated to report to the States details of the loan in the normal 6 monthly reporting processes.

Regulation 3

Under the terms of Regulation 3 the whole Regulations will only come into effect if a bank is declared bankrupt and the effective date for such is set.

These Regulations are presented alongside P.84/2009, which identifies the Strategic Reserve as a potential source of funding for the funding requirements of the Jersey Bank Depositors Compensation Scheme.

Explanatory Note

These Regulations make changes to the public finances regime that are expected to be required in the event that a bank in Jersey is made bankrupt and arrangements must be made for the payment of compensation to creditors under the Banking Business (Depositors Compensation) (Jersey) Regulations 200-

These Regulations would only come into force if and when a bank registered in Jersey is made bankrupt.

Regulation 1 would amend the Public Finances (Jersey) Law 2005 (the “2005 Law”). Article 23 of that Law places restrictions upon lending by the States. Paragraph (2) of Article 23 limits the amount of lending, at any one time, to an aggregate not exceeding the equivalent of 15% of the estimated income of the States from taxation during the previous financial year. This amendment would increase this limit to 33% of that estimated income.

Regulation 2 permits the Minister for Treasury and Resources (“the Minister”) to authorize certain loans. As a generality, by virtue of Article 23(1) of the 2005 Law, only the States may authorize lending, on a proposition lodged by the Minister. However, the States have already permitted the Minister to authorize certain lending (see Regulation 13 of the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005). This Regulation would now also authorize the Minister to make loans to the Jersey Bank Depositors Compensation Board, in the circumstances and subject to the limits specified in paragraphs (2) to (4).

Regulation 3 provides for the citation of the Regulations and for their commencement as described above.



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Arrangement

Regulation

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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Article 23 of the Public Finances (Jersey) Law 2005¹, have made the following Regulations –

1 Public Finances (Jersey) Law 2005 amended

In Article 23(2) of the Public Finances (Jersey) Law 2005², for the amount “15%” there shall be substituted the amount “33%”.

2 Minister’s authority to lend money to the Jersey Bank Depositors Compensation Board

- (1) The Minister may, in the name of and on behalf of the States, lend to the Board in accordance with this Regulation.
- (2) The loan or loans shall not exceed, in the aggregate, £100 million.
- (3) The purpose of the loan or loans shall be to provide the Board with sufficient cash to bridge a shortfall in the amount available to the Board to compensate creditors where that shortfall arises by virtue of the operation of Regulation 30(3) of the BBDC Regulations.
- (4) The loan shall be repayable within a period not exceeding 5 years.
- (5) Except as otherwise provided by this Regulation, a loan made under it may be made on such terms and conditions and at such rate of interest, and may be secured in such manner (if any), as the Minister may determine.
- (6) The Minister must, at periods of no longer than 6 months, report to the States details of any lending under this Regulation since the last such report.
- (7) This Regulation is in addition to, and not in derogation of, the authority conferred by Regulation 13 of the Public Finances (Transitional Provisions) (No. 2) (Jersey) Regulations 2005³.

(8) In this Regulation –

“BBDC Regulations” means the Banking Business (Depositors Compensation) (Jersey) Regulations 200-;

“Board” means the Jersey Bank Depositors Compensation Board established by Regulation 8 of the BBDC Regulations.

3 Citation and commencement

These Regulations may be cited as the Public Finances (Depositors Compensation) (Jersey) Regulations 200- and shall come into force on the first relevant date published under Regulation 16 of the BBDC Regulations.

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- ¹ *chapter 24.900*
² *chapter 24.900*
³ *chapter 24.900.81*