

# STATES OF JERSEY



Jersey

## **DRAFT BANKING BUSINESS (DEPOSITORS COMPENSATION) (AMENDMENT No. 2) (JERSEY) REGULATIONS 201- (P.81/2019): AMENDMENT**

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**Lodged au Greffe on 6th January 2020  
by the Economic and International Affairs Scrutiny Panel**

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**STATES GREFFE**



**DRAFT BANKING BUSINESS (DEPOSITORS COMPENSATION)  
(AMENDMENT No. 2) (JERSEY) REGULATIONS 201- (P.81/2019):  
AMENDMENT**

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**1 PAGE 12, REGULATION 7 –**

After the inserted Regulation 35A(8) there is inserted –

“(9) Paragraph (10) applies to any information (including any document or answer) that –

- (a) is obtained by the Board under this Regulation;
- (b) is not also obtained under Regulation 16, or held for the purpose of paying compensation or verifying a claim for compensation; and
- (c) consists of or includes personal data, within the meaning of the Data Protection (Jersey) Law 2018, relating to a person as a depositor of a bank other than a bank in default.

(10) The Board must –

- (a) as soon as is practicable after obtaining the information, encrypt it if it is not already encrypted; and
- (b) ensure that it is encrypted at all times at which it –
  - (i) is held by or on behalf of the Board, and
  - (ii) is not in use for a purpose that requires it to be temporarily decrypted.

(11) For the purposes of the Data Protection (Jersey) Law 2018 and the Data Protection Authority (Jersey) Law 2018, a contravention of paragraph (10) is to be treated as also being a contravention of Articles 8(1) and 21(1) of the Data Protection (Jersey) Law 2018.

(12) Paragraphs (10) and (11) are in addition to, and are not to be read as derogating from, any duty imposed on the Board by or under the Data Protection (Jersey) Law 2018 (and in particular by Article 8(1)(f), or Article 21(1) as read with Article 21(2)(a), of that Law) or by any other law.”.

**2 PAGE 12, REGULATION 7 –**

For the inserted Regulation 35B(2)(b) there is substituted –

“(b) to the Minister, if the information –

- (i) concerns the administration or operation of the scheme, and
- (ii) does not consist of or include personal data, within the meaning of the Data Protection (Jersey) Law 2018, relating to a person as a depositor;”.

**ECONOMIC AND INTERNATIONAL AFFAIRS SCRUTINY PANEL**

## REPORT

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### Background

[P.81/2019](#) – Draft Banking Business (Depositors Compensation) (Amendment No. 2) (Jersey) Regulations 201- (the “draft Regulations”) was lodged by the Minister for External Relations on 14th August 2019. The draft Regulations seek to amend the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) (the “2009 Regulations”). The 2009 Regulations established a Bank Depositor Compensation Scheme (“the Scheme”) which exists to provide protection for certain bank deposits held in Jersey should a bank no longer be in a position to immediately return deposits to depositors.

The Scheme is governed by the Jersey Bank Depositors Compensation Board (“the Board”), which is an independent body. Currently, the Board does not have the power to collect information from banks regarding the deposits that they hold, or the profile of depositors. Therefore, the draft Regulations would grant the Board powers to collect information about deposits held by Jersey banks and include a standardised format for the collection of data. The purpose is to provide a system whereby, if the Scheme was triggered, information about protected deposits could automatically be processed, and deposits returned quickly, irrespective of which bank held them.

### Rationale

The Panel raised a number of concerns, mainly around Regulation 7, which amends the 2009 Regulations by inserting Regulation 35B (Disclosure of information). The draft Regulations set out the instances in which the Board could disclose information collected for the purposes of administering the Scheme, as well as those individuals or organisations with whom it can share such information (i.e. the Minister, Jersey Financial Services Commission, or any person enabling or assisting the Board). The Panel questions whether it is necessary to allow access to individuals’ personal data by such a wide range of entities.

The Panel proposes that the legislation is amended in order to provide extra safeguards in relation to the sharing of sensitive data and how it is stored. The amendment, if accepted, would –

- Provide an insistence that data is held in an encrypted format;
- Remove the Minister from information-gathering powers.

#### Provide an insistence that data is held in an encrypted format

In order to provide extra safeguards for the transfer and storage of such sensitive data, the Panel believes that data should be held in an encrypted format. The process for converting sensitive data into an encrypted format would prevent unauthorised access to data, should it inadvertently fall into the wrong hands.

#### Remove the Minister from information-gathering powers

The draft Regulations specify which individuals and organisations with whom the Board can share information collected for the purposes of administering the Scheme. The Minister is included within the list, but the Panel sees no reason as to why sensitive data

should be shared with a Minister for the purposes of the Scheme. Therefore, the amendment would remove the information-gathering powers from the Minister.

### **Conclusion**

The amendments proposed by the Panel are intended to provide extra safeguards for the transfer and storage of sensitive data. In that regard, the Panel welcomes the Minister's [support](#) for the proposed changes.

The Panel is presenting a Comments paper which provides further detail on the background to this amendment (the Comments can be found on the States Assembly [website](#)).

### **Financial and manpower implications**

There are no financial or manpower implications arising from the adoption of this amendment.