



Consultation: Transfer of the Jersey Bank Depositors Compensation Scheme – Amendment

OCTOBER 2024

Summary:

In February 2024 Government consulted on the planned transfer of the functions of the Jersey Bank Depositors Compensation Board (“**the DCS Board**”) to the Jersey Resolution Authority (“**the JRA**”), as well as necessary improvements to the legislation underpinning the Jersey Bank Depositors Compensation Scheme (“**the Scheme**”). Following this, Government is now seeking views on Draft Legislation which will give effect to the transfer and changes to the scheme.

As highlighted in the February consultation, Government is not consulting on, at this stage, adjustments to the protected deposit value, adjustment to the liability cap or extension of the eligible depositor definition.

Whereas previously Government intended to transfer the DCS Board’s functions by 1 January 2025, this timeline is no longer possible and has been extended to the 1 July 2025 to allow time for consultation on the Draft Bank (Recovery and Resolution) (Jersey) Amendment Law 202- (“Draft Law”).

Date published:

7 October 2024

Closing date:

15 November 2024

BACKGROUND

1. The [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) (the “**2009 Regulations**”) established the Scheme and the DCS Board, tasked with administering the scheme and promoting public awareness to enhance consumer confidence. In more recent years, the International Association of Deposit Insurers (“**IADI**”) developed 16 best-practice principles for deposit guarantee schemes, which Jersey aims to comply with as feasible. These principles were considered within revised draft legislation, The Draft Bank Depositors Compensation (Jersey) Law 201- (the “**Draft DCS Law**”), which was lodge au Greffe in 2016 but subsequently withdrawn. While the DCS Board has modernised its working practices, there remains a need to update the legislation underpinning the Scheme.
2. In 2017, Jersey adopted the [Bank \(Recovery and Resolution\) \(Jersey\) Law 2017](#) (the “**Resolution Law**”) to create a framework to plan for, and mitigate the effect of, bank failures, implementing international standards established after the 2008 financial crisis. The Resolution Law led to the formation of the JRA in 2022, which prepares for and oversees bank resolutions while publishing relevant policies and guidance in surrounding these functions.
3. The February 2024 consultation outlined the Government’s preference to consolidate these functions into a single independent body operating under one comprehensive piece of legislation. This approach aims to enhance the Island’s overall response to bank failures while making the administration of the regimes more proportionate to the Island’s needs.

February 2024 Consultation

4. The February 2024 consultation communicated our objectives for the delivery of this Draft Law as follows:
 - 4.1 The primary aim is to facilitate the transfer of powers and functions from the DCS Board, as established under the 2009 Regulations, to the JRA under the Resolution Law. The legislation for both the Scheme and the Resolution Framework will be consolidated into the Resolution Law.
 - 4.2 The Government intends to implement necessary amendments, in line with those proposed in the Draft DCS Law, to enhance the administration of an effective Depositors Compensation Scheme that is better aligned with international best practices.
 - 4.3 We aim to amend Article 72 of the Resolution Law to clarify its intended scope and to allow for more practical application.
5. The consultation was live from 29 February to the 29 March 2024. During this period Government engaged with relevant stakeholders, including the Jersey Bankers Association.
6. The consultation received limited responses, which was largely expected due to the technical complexity and the niche nature of this area of law, which is infrequently practiced in Jersey. Jersey's Banks engaged with the consultation, primarily through the Jersey Bankers Association Prudential Sub-Committee at which Government presented its plans. The Jersey Bankers Association provided a general response to the consultation noting broad support, as well as a large retail bank directly responding to the consultation with similar support for the proposals made. Two additional anonymous responses were submitted through the survey tool, both expressing unanimous support for the proposals outlined in the consultation.
7. Government would like to take this opportunity to thank all respondents to the February consultation for their valuable feedback.

CONSULTATION

9. Following the consultation, which closed in March 2024, the Government instructed the drafting of [the Draft Law](#).
10. The new law has been prepared with the primary aim of transposing the provisions of the Draft DCS Law into the Resolution Authority, thereby implementing the proposals outlined in the consultation. These Articles now form Part 7A of the Resolution Law. To ensure consistency, necessary adjustments in terminology were made to remove conflicts and harmonise the new provisions with the existing Resolution Law.

Question 1: Do you have any comments on the specific provisions for the Scheme in the new Part 7A in the Draft Law?

Question 2: Do you have any other comments related to other Articles within the Draft Law?

11. In addition to effecting the transfer of the Scheme to the JRA, specific amendments have been made to enhance the Resolution Framework. These changes include:
 - 11.1 As identified in the February Consultation, an amendment to Article 72 of the Resolution Law is proposed to clarify its scope and enhance its practical application.
 - 11.2 In line with recent consultations performed by the JRA on the setting of minimum requirements for own funds and eligible liabilities (“MREL”), an amendment to Article 26 of the Resolution Law is proposed to allow the Minister to prescribe eligibility criteria for the application of such minimum requirements by banks. This will allow for application of the regime as is envisaged by the EU’s Bank Recovery and Resolution Directive.

Question 3: Do you have any comments relating to new provisions for the Resolution Framework?

12. Beyond those amendments for the purposes of enhancing the Scheme or Resolution Framework, additional provisions have been made to effect an orderly transfer of the Scheme for the DCS Board to the JRA, repeal of existing provisions for the Scheme under

Article 37 of the Banking Business (Jersey) Law 1991, and make consequential amendment to other Laws which reference the Scheme or the DCS Board.

Question 4: Do you have any comments relating to these additional provisions or note other provisions which may be necessary to consider?

Conclusion

13. Government welcomes feedback to this consultation on the Draft Legislation and is grateful for the ongoing support of the JRA and DCS Board, as well as industry and wider stakeholders in developing the approach to delivery of the Scheme.

14. Upon consideration of responses and amendment where necessary, the Draft Legislation will be finalised for lodging in the with a view to the law coming into effect by 1 July 2025.

How to engage with the consultation.

Responses to the questions above can be submitted:

- by email to Economy@gov.je with DCS in the subject line / for the attention of Thomas Wright, or
- in writing to
Department for the Economy
19-21 Broad Street
St Helier
Jersey
JE2 3RR

Should you wish to find out more about those authorities discussed within this consultation, please follow the links below.

The Jersey Bank Depositor Compensation Board – [Jersey Bank Depositors Compensation Scheme | Home \(jerseydcs.je\)](#)

The Jersey Resolution Authority - [Jersey Resolution Authority | Home \(jra.org.je\)](#)

Appendix A – Draft Law

The draft law has been published on gov.je/consultations and [can be viewed here](#).

Appendix B – Summary of questions asked

Question 1: Do you have any comments on the specific provisions for the Scheme in the new Part 7A in the Draft Law per Appendix A?

Question 2: Do you have any other comments related to other Articles within the Draft Law per Appendix A?

Question 3: Do you have any comments relating to new provisions for the Resolution Framework?

Question 4: Do you have any comments relating to these additional provisions or note other provisions which may be necessary to consider?