STATES OF JERSEY

DRAFT BANK (RECOVERY AND RESOLUTION) (JERSEY) AMENDMENT LAW 202- (P.42/2025): COMMENTS

Presented to the States on 25th September 2025
by the Economic and International Affairs Scrutiny Panel

STATES GREFFE

COMMENTS

Background

The Draft Bank (Recovery and Resolution) (Jersey) Amendment Law 202- [P.42/2025] (the draft Law) was lodged on 27th May 2025 by the Minister for External Relations ("the Minister") and the principles of the draft Law were debated on 9th July 2025.

The draft Law primarily seeks to transfer the functions of the Jersey Bank Depositor Compensation Board (DCS Board), currently established under the Banking Business (Depositors Compensation) (Jersey) Regulations 2009 ("2009 Regulations"), to the Jersey Resolution Authority (JRA) through amendments to the Bank (Recovery and Resolution) (Jersey) Law 2017 ("2017 Law").

The Economic and International Affairs Scrutiny Panel presented comments [P.42/2025 Com.] on 4th July 2025 accepting the rationale for the transfer of the functions of the DCS Board to the JRA and of the provisions in the proposed Draft Law to establish this.

However, the Panel was concerned that the opportunity to review and update the limit of compensation, set at £50,000, had not been undertaken prior to the formation of the draft Law and accordingly the Panel referred the Regulations for scrutiny under Standing Order 72 to allow for further consideration to take place.

The Panel's comments presented on 4th July 2025 explored several aspects of the draft Law, offering detailed observations. To avoid unnecessary repetition, these comments focus specifically on the key concerns that prompted the Panel to refer the Regulations for further scrutiny.

Scrutiny of proposals

The Panel's main concern is the rationale and decision not to increase the compensation limit in the proposed draft Law. The Panel launched a call for evidence on 28th July 2025 seeking the views of Islanders regarding the proposed changes. The objective was to gauge public awareness of the topic, assess the potential impact felt by Islanders of not increasing the compensation limit, and obtain general feedback on whether the current compensation limit is considered appropriate.

The Panel held public hearings with the Minister for External Relations and Assistant Minister for External Relations in addition to a separate public hearing with the Jersey Resolution Authority (JRA).

The Panel was informed during its public hearing with the JRA that as a result of the Panel's review and following the Panel's hearing with the Minister for External Relations, the Minister had formally requested that the JRA initiate a review of the Jersey Bank Depositors Compensation Scheme. The Minister has confirmed that the review will analyse the compensation limit and any impact of increasing the limit.

The Panel welcomes the Minister's acknowledgment of its concerns, and his commitment to conduct an in-depth, timely review and analysis of the current compensation limit.

Panel observations and recommendations

Compensation limit

The Panel's call for evidence sought to understand Islanders' knowledge of the compensation scheme and whether they felt their funds were protected, and if the current compensation limit was sufficient. The Panel also organised a pop-up stand in St Helier as part of its outreach efforts to engage with as many people as possible.

The Panel remains concerned that the current compensation limit has not kept pace with inflation and is not at the level of the protection offered in many other jurisdictions (namely in the UK and EU). The Panel notes that the compensation limit has not been increased since its introduction in 2009 (whilst inflation over the same period has been 67%). It is regrettable that the devaluing of the compensation scheme limit was not addressed earlier and prior to the drafting of this proposed draft Law.

The Panel received a number of submissions from members of the public highlighting their dissatisfaction referencing the persistent inflationary pressures and comparatively higher compensation limits in other jurisdictions:

> *"The current level of savings protection (£50k) puts Jersey savers at an unfair disadvantage. An amount equivalent to UK protection (currently £85k) or in recognition of inflation since the limit last changed (up to £100k would be more appropriate"*[1].

The compensation limit is in line with the limits in Guernsey and Isle of Man, however, the equivalent limit in the United Kingdom is £85,000 per depositor, and the Prudential Regulation Authority proposed earlier this year to raise the figure to £110,000[2]. Furthermore, in the EU the Deposit Guarantee Scheme has a compensation limit so deposits are protected up to €100,000 per depositor, per bank across all EU Member States. Following a submission from the Channel Islands Financial Ombudsman, the Panel notes that the absence of adjustments of compensation limits is not confined to a single scheme in Jersey, but applies to others when compared with other jurisdictions:

> *"..CIFO works with the regulator (in this case the JFSC) as best able, given regulator confidentiality provisions, to avoid such circumstances where possible. Our own compensation limit has been static at £150,000 since our inception in 2015 when it was aligned to that of the UK Financial Ombudsman Service (UK FOS) at the time. The UK FOS limit is now £445,000"*[3].

[1] Written Submission - Bank Depositors Compensation Review - Bernard Place - 21 August 2025

[2] https://www.bankofengland.co.uk/news/2025/march/the-pra-proposes-raising-fscs-deposit-protection-limit

[3] Written Submission - Bank Depositors Compensation Review - Channel Islands Financial Ombudsman -21 August 2025

In submissions received, the Panel noted the inequity felt by some Islanders comparing the compensation limit in Jersey to the UK, with one submission highlighting that it was "*not reasonable for Jersey to benefit from the upside of offshore investment but then not provide some measure of compensation for the downside - wherever the investment originated"*[4].

Furthermore, the Panel heard from Islanders that in order for them to have their savings protected, they would need to place money across various accounts which would in turn result in the depositor not earning as much interest:

> *"With the extreme difficulty of opening new accounts with different Banks to spread the risk,(and the resultant lower sum potentially invested on deposit, therefore producing a smaller yield)."*[5]

Islanders highlighted their concerns that the limit remaining at the rate since 2009 did not align with the escalating costs associated with property acquisition and the financial burden on Islanders, particularly in terms of the increase in the deposit amount required:

> *"Also this sum is now below what the average potential house buyer has to save for their deposit, making it a risk for them too"*[6].

Finding 1: The depositors compensation scheme limit having not been reviewed or increased since 2009 leaves Islanders in a less favourable position compared to other jurisdictions such as the UK. Islanders want to see more protection for their money and the compensation limit should be increased in line with the cost of living and inflation increases the Island is subject to.

Recommendation 1: The depositors compensation scheme limit should be raised, and the Minister for External Relations along with the Council of Ministers should at its earliest opportunity make a collective in-principle decision to do this.

Recommendation 2: The Minister for External Relations should outline the scope and terms of reference of the JRA's compensation limit review in recognition that the current limit is outdated and insufficient.

Recommendation 3: The Minister for External Relations should share the scope and terms of reference of the review with the Panel prior to the JRA commencing its review.

The Panel remains concerned that Jersey having a lower compensation limit compared with the UK or the EU, places Islanders' deposits more at risk and at an unfair disadvantage. The Panel also raised concern around the lower limit resulting in Jersey not being as competitive as other jurisdictions with higher limits. The JRA in its submission to the Panel did state that raising the limit could in fact have unintended consequences, reducing competitivity on the island:

> *"In contrast, amending the Scheme so that it offers disproportionately greater levels of cover and requires a corresponding increased funding commitment*

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[4] Written Submission - Bank Depositors Compensation Review - Bernard Place - 21 August 2025
[5] Written submission - Bank Depositors Compensation Review-Anonymous 2 - 6 August 2025
[6] Written submission - Bank Depositors Compensation Review-Anonymous 2 - 6 August 2025

from Jersey banks may reduce the Island's competitiveness in terms of attracting new banks or maintaining a diverse spectrum of Jersey banks. This may have adverse effects on consumer choice and Jersey's economy."[7]

The Panel understands it is important as part of the JRA's review into the compensation limit that, in order to determine the appropriate level for compensation, additional data is required from banks to fully understand the banking landscape in Jersey and the impact that an increase to the compensation limit could have on banks in Jersey. This was reiterated by the JRA in its submission:

"Determining an appropriate level at which to set the compensation limit would require us to obtain additional data from Jersey banks and analyse this as well as consideration of other factors relating to the potential benefits and costs of increasing the compensation limit."[8]

The Panel is mindful that if the depositor compensation limit were to be increased, there might need to be a subsequent increase in the States loan facility which the Assistant Minister for External Relations confirmed in the public hearing:

Assistant Minister for External Relations:

"... that has a knock-on cost of what Government can use that money for, what it can borrow for. Because, if we increase the limit, then the States loan would have to increase, and that means less ..."[9]

Finding 2: There is currently no stipulation or mechanism in place for a review of the compensation limit to take place and other jurisdictions such as the UK or the EU have reviewed their limits on a more regular basis. The Panel believes there should be a mechanism put in place by the Minister to review the compensation limit on a scheduled basis to ensure the limit remains appropriate. The Panel questioned the JRA to this effect and it was supportive of regular reviews, agreeing that they are important.

Recommendation 4: Once the review is concluded, the Minister for External Relations should establish a clear schedule for the periodic review of the compensation limit to ensure the limit remains appropriate.

Transfer of functions to the JRA

The Panel considers it important to reaffirm its support for the transfer of functions to the JRA, as well the rationale underpinning that transfer. This element of the draft Law was previously examined in the Panel's initial comments [P.42/2025 Com.], where various benefits for depositors of the transfer of functions to the JRA were identified. A summary of those benefits is provided below:

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[7] Written Submission - Bank Depositors Compensation Review - Jersey Resolution Authority - 13 August 2025

[8] Written Submission - Bank Depositors Compensation Review - Jersey Resolution Authority - 13 August 2025

[9] Transcript- Public Review Hearing with the Minister and Assistant Minister for External Relations - 14 August 2025 p.18

- Improve the schemes' ability to make straightforward and timely compensation payments
- Help to ensure the scheme is aligned to international standards
- Reduction of the administrative burden for the JRA and depositors through the removal of need to apply for compensation in the case of a bank failing.

These welcome benefits were confirmed in the Panel's public hearing with the JRA on 28th August 2025. An additional enhancement highlighted during the public hearing was the removal of the current £100 million cap on the maximum compensation total that can be paid. In the public hearing with the Panel the JRA stated that this will allow more flexibility in banks receiving payment:

> *"It brings a few other benefits, notably the existing scheme has a cap on the maximum amount of compensation that can be paid in total. That is there in part as a nod to the historic position in relation to the nature of banks that would be used, or the scheme might be used for, but ultimately removing that cap gives some additional flexibility to the scheme. Again, we and other resolution authorities plan to try and avoid significant disruption caused by a bank failure, but ultimately you can have this scheme as a backstop that could work potentially even in the slightly larger bank failures."*[10]

The Panel understands that not only will the process be more efficient should a bank fail under one authority, and furthermore the Panel was reassured that the JRA will remain attentive to international standards to ensure Jersey stays aligned.

Consultation

During the Panel's initial scrutiny of the proposals, it was informed by the Minister that he had undertaken formal consultation in February and October 2024 as well as engaging with professionals in insolvency and restructuring to gain feedback on the draft Law and the provisions included.

The Panel considers that a significant opportunity was missed during the Minister's consultations as no engagement was undertaken regarding "*adjustments to the protected deposit value, adjustment to the liability cap, or extension of the eligible depositor definition*"[11]. In the Panel's view, to not have consulted on the protected deposit value, adjustment to the liability cap and extension of the eligible depositor definition represents a missed opportunity to strengthen the framework through broader stakeholder engagement.

Furthermore, the response to the consultation as outlined in the accompanying report to the Minister's proposition was, as the Minister recognised, *"limited due to the technical nature of the proposals"*[12]. The consultation conducted in Q1 2024 only garnered responses from two banks, one individual and the Jersey Bankers Association. The subsequent consultation in October 2024 elicited three responses: two from insolvency practitioners and one comment from a member of the public.

[10] Transcript- Public Review Hearing with the JRA- 28 August 2025 p.7
[11] Transfer of the Jersey Bank Depositors Compensation Scheme: Amendment
[12] Letter - Minister for External Relations to Economic and International Affairs re Bank Depositors Compensation Review Hearing Follow-up Questions - 1 September 2025

Finding 3: The consultation process that informed the proposed draft Law was limited both in terms of participant engagement and thematic breadth.

Recommendation 5: The Minister for External Relations should ensure that as part of the JRA's forthcoming review, a comprehensive stakeholder consultation is undertaken, including both depositors and industry professionals, aswell as the wider public.

Over the course of the Panel's questioning, there were indications that there is a potential lack of easily accessible information for depositors on how their deposits are protected, to what sum, by whom and the different legal frameworks that apply depending on whether deposits are placed in a Jersey bank or a larger UK bank with a branch in Jersey. The Panel raised a question to obtain clarity on this topic during its public hearing with the JRA:

> ***"Deputy M. Tadier:***
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> *...when we were doing the outreach work in the high street the other day, said that they thought that they were protected to a high level because they are part of a bigger U.K. banking company. They told us that they were protected to £80,000, I think they said, which seems like an arbitrary figure, £80,000 does not ring a bell. But can you clarify that under the Jersey system, even if you are with one of those well-known retail banks, you are protected by the Jersey scheme, not by the U.K. limit?*
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> ***Chair, Jersey Resolution Authority:***
>
> *Correct. All the banks that operate in Jersey, and this is common, I was going to say, across the world, but certainly across developed countries with Depositors Compensation Schemes it is common that the Depositors Compensation Schemes are built around the banks that operate in that 5 domain. So, yes, every bank depositor in Jersey, at any of those Jersey banks, is protected up to £50,000. The £80,000 is probably a reference to the £85,000 that the U.K. bank depositors are currently protected."*[13]

In a letter to the Panel dated 1st September 2025, the Minister explained that *"to ensure the public is appropriately informed – particularly regarding the JRA's new role in administering the compensation scheme – a communications plan will be developed following the adoption of the Draft Law by the States Assembly"*[14].

Finding 4: Through the Panel's review and engagement with the public, it became evident that there is a need for enhanced public education to ensure that islanders have a clear understanding of how their financial assets are protected.

Recommendation 6: The Minister for External Relations should commit to providing clear information and education around the workings of the compensation scheme.

[13] Transcript- Public Review Hearing with the JRA- 28 August 2025 p.4-5
[14] Letter - Minister for External Relations to Economic and International Affairs re Bank Depositors Compensation Review Hearing Follow-up Questions - 1 September 2025

Conclusion

The Panel is supportive of the draft Law in its enabling of transfer of functions to the JRA, which should provide significant enhancements to the Depositors Compensation Scheme and benefits to depositors. The Panel remains strongly of the opinion that the compensation limit is no longer sufficient. The Panel considered lodging an amendment in this regard however, the Panel accepts that asking the JRA to commence the review is a legitimate way forward which can only take place once functions are transferred to the JRA.

The Panel would reiterate that the decision whether to increase the current compensation limit is ultimately a political decision.

The Panel will be requesting a written response to the recommendations from the Minister. The Panel thanks the Minister and Assistant Minister for External Relations, government officials and the JRA for their time in providing evidence to inform its scrutiny of the draft Law.