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Assemblée des États

Economic and International Affairs Scrutiny Panel

Bank Depositors Compensation Scheme

Witness: The Minister for External Relations

Thursday, 14th August 2025

Panel:
Deputy M. Tadier of St. Brelade (Chair)
Deputy M.B. Andrews of St. Helier North
Deputy K.M. Wilson of St. Clement

Witnesses:
Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter, The Minister for External Resources
Deputy E. Millar of St. John, St. Lawrence and Trinity, Assistant Minister for External Relations
Mr. T. Wright, Associate Director, Financial and Professional Services Unit

[12:32]

Deputy M. Tadier of St. Brelade (Chair):
Ministers, Associate Director, thank you for making the time to come and speak to us today. This is part of a public hearing into a review that we are doing into the Depositor Compensation Scheme that exists currently in Jersey and which we know you are bringing some amendments to. Just for clarity, the panel has called this in after the First Reading which was passed before it comes back to the States for the Second and Third Readings. Let me just introduce myself, I am Deputy Montfort Tadier, I am the chair of the Economic and International Affairs Scrutiny Panel.

Deputy M.B. Andrews of St. Helier North:
I am Deputy Max Andrews, a panel member.

Deputy M. Tadier:

And online we have got Deputy Karen Wilson of St. Clement. She is going to be here for the first half now. She will have to leave us but she will be listening primarily, but also potentially asking questions as well. So, thank you, Karen. First of all, could you begin by introducing yourselves?

The Minister for External Relations:
Yes, I am Ian Gorst, the Minister for External Relations.

Assistant Minister for External Relations:
I am Elaine Millar, Assistant Minister for External Relations.

Associate Director, Financial and Professional Services Unit:
Thomas Wright, associate director in the Financial and Professional Services Unit.

Deputy M. Tadier:
Thank you. Just to clarify, Deputy Millar, you are leading on this piece of work in the sense that you presented it to the States Assembly.

Assistant Minister for External Relations:
I was rapporteur, yes.

Deputy M. Tadier:
In your role as Assistant Minister for External Relations. Thank you. If you are happy, I will probably direct the questions to yourself, Deputy Millar, but of course, any of you, and especially Deputy Gorst, can answer if it is more appropriate. Could you begin by explaining the primary objectives of the Draft Banking (Recovery and Resolution) Amendment?

Assistant Minister for External Relations:
The principal objectives of the law that was debated is to bring together the Jersey Resolution Authority and the Jersey Bank Depositors Compensation Scheme Board, because they have evolved separately. The Depositors Compensation Scheme was set up in 2009, 2010, and then the Jersey Resolution Authority followed when the Bank (Recover and Resolution) Law was passed, I think in 2017. So, we have 2 bodies, there is some degree of overlap with their functions. There is potential as separate bodies for some degree of inefficiency in terms of their being, and I do not like to use the words “bank failure” but if a bank did go into effectively an insolvency, bringing the 2 bodies together will mean for a simpler, faster, more efficient process. So, there is the merger of the 2 bodies, which makes complete sense, and there are also some administrative changes to the way the Depositors Compensation Scheme works to make it more efficient and better, to give a better experience for depositors. I think the law at the moment requires depositors to apply for funds

from the scheme, so we are working on a system which would mean that the Jersey Resolution Authority, if a bank was in that place where the Depositors Compensation Scheme was triggered ... because the scheme will continue, it will just be run by the J.R.A. (Jersey Resolution Authority) rather than the D.C.S. (Depositors Compensation Scheme) Board, they would be able to just make payments straight away. So depositors would not have to go through the additional step of making a claim, they will capture information from the banks that will enable them just to pay the cheque; they will know who the eligible depositors are and they will be able to pay out. Then I think there are some other relatively minor administrative amendments to the scheme.

Deputy M. Tadier:
Thank you. Minister, during the debate on 9th July, it was mentioned that the current arrangement of having a Depositors Compensation Scheme Board and the J.R.A. neither are necessarily proportionate for a jurisdiction of our size, so what is going to happen to the D.C.S. Board? Is that still remaining?

Assistant Minister for External Relations:
No, the D.C.S. Board is still in place, both organisations ... the D.C.S. Board is still there, the J.R.A. is still there. I think we have a common chair, Mr. Mitchell, who is the chair of the J.R.A., is also now the chair of the D.C.S. board I believe; he is certainly on that board. The D.C.S. Board will continue in place, the merger will take effect.

Associate Director, Financial and Professional Services Unit:
I can jump in at this point maybe. While they are coming together, the intent is to bring them together. As we have mentioned, the chair is over both, and there was some intent behind that so that there was that crossover with the strategic view to bring it together. The D.C.S. Board will be wound down post-transfer, so the transfer will occur and then the result is to have one. However it will not happen straight away because from an accountability perspective there will need to be the final period set of accounts by the Depositors Compensation Scheme Board. We are allowing them what we are calling a residuary period where they have very limited powers. The powers for compensation are removed away from them but the responsibilities for overseeing what is left of their assets to deliver that final set of audited accounts, and the responsibilities there will remain with them for that period. Once that period is done and the accounts are with the Minister, and then presented to the States, we will then have a commencement order to essentially repeal the remaining bit of legislation and dissolve that.

Deputy M. Tadier:
Is all that set out in P.42?

Associate Director, Financial and Professional Services Unit:

That is explained with ... so that is set out in it, and I think that is why we have a commencement order mechanism. There is one of the final Articles which addresses the repeal of the current regulations. There is also an Article which addresses the deletion of Article 37 of the Banking Business Law, which is essentially the place within the Banking Business Law that sets up all of the compensation scheme, because we are taking it out of that law and we are putting it now into a completely different law and everything else, so it does not need to be within that law. It is all within there and I think the commencement mechanism allows you to identify these are the ones that we are going to trigger at the transfer date, and then at the later date will trigger those remaining ones to repeal the law completely.

Deputy M. Tadier:

Thank you. If you have not done so already, can you advise the panel how the proposed single authority will ensure the Jersey framework continues to align with international standards, including the core principles of the International Association of Deposit Insurers?

Assistant Minister for External Relations:

I do not think there is any question that is not the case. The scheme, apart from the administrative enhancements, will continue to exist in its current form with some measure of administrative enhancements, and they will continue to keep an eye to international standards in terms of operation of the scheme. But our anticipation would be that the scheme is very unlikely to ever be triggered because of the resolution framework that now exists, so that is an additional. The fact that we now have a clear resolution framework means that the chance of the type of bank where local people have money going into, the scheme being triggered in one of those banks is, I would say, fairly remote, and the type of banks which would go into insolvency are not the locally significant banks that would have significant numbers of local depositors.

Deputy M. Tadier:

Can you explain how having the Resolution Authority makes it less likely for banks to fail, is that what you are saying?

Assistant Minister for External Relations:

Yes, the Resolution Authority already work with the Recovery and Resolution Law, it sets out a framework for if a bank becomes unstable, if it becomes financially unstable, the resolution work, and that would be identified by virtue of information that the banks provide to the regulator and to the Resolution Authority. So there would be alarm bells ringing quite early that a bank was struggling that would allow resolution tools to be used. It would allow the Resolution Authority to go in and look at actions that can be taken to return that bank to solid financial footing or certainly to avoid a disorderly wind down and loss of depositor funds. So the fact that there is a resolution framework, which again I do believe meets international standards, we had a close eye to Europe and the U.K. (United Kingdom) when we were designing that law. I was very involved in that for a while in a previous role, and it will allow steps to be taken to basically stop the bank becoming insolvent, because insolvency is in no one's interest.

Deputy M. Tadier:
Can I just ask you about that, because we have also got the transcript here from 9th July and your summing-up comments? I think you said that you were involved in the very early consultations; could you just tell us what your involvement was at that stage?

Assistant Minister for External Relations:
At that time I was the Viscount, and you could say the Viscount is Jersey's insolvency officer, so the Viscount runs *désastre* proceedings. Because we were potentially talking about insolvency of banks, the Viscount had a clear interest in what the law was going to say. Ultimately, we had lots of discussions about what role the Viscount would have if a bank failed, which struck me as it is very unlikely that a *désastre* of a Jersey bank was likely, and I think what the law did ... my recollection is that the Recovery and Resolution Law specifically says that a Jersey bank cannot be put on *désastre*, that you have to follow the resolution mechanism. Again, that is for good reason; a *désastre* in terms of a bank would not give the best result for depositors or anyone really.

Deputy M. Tadier:
I do not really want to pre-empt too much my questions that we might ask later, but is it fair to say then, because you think that the chances of a bank going insolvent in Jersey are so low and probably lower than many other places, would you say that the main reason we have a scheme in the first place is for compliance rather than for practical necessity?

Assistant Minister for External Relations:
The D.C.S., the scheme itself, I think was set up in response to the financial crisis in 2008, and in response to what was happening elsewhere in the international environment. I think it is fair to say that it was not just plucked out of thin air. I remember being involved in consultations about a Depositors Compensation Scheme in the late 1990s, so the discussion about a compensation scheme had been ongoing for various levels of enthusiasm, shall I say, or activity for quite a long time.

[12:45]

But I think after the banking crisis, that accelerated that work so that we did have a scheme in place, but I think the reality is, when we go into the policy behind the Recovery and Resolution Law, many of our banks operate as branches of much bigger organisations, so the chances of anybody putting, say, a branch of one of the main U.K. banks on *désastre* is an absurd proposition because you would put the whole bank into *désastre.* You cannot make a branch on *désastre* or bankrupt.

Deputy M. Tadier:
Does the fact that a Jersey bank is ring-fenced in a sense, is that different?

The Minister for External Relations:
You are confusing the term "ring-fencing", which is something that the U.K. did in relation to what sort of assets and accounts you can have within certain types of banks, and so the big retail banks that we have, U.K. retail banks that we have in Jersey, they do not all have the same approach. Some are in the ring-fence, some are outside of the ring-fence, but that is their internal decision about how they are going to structure this work, where they want to raise funds from around the world. But that ...

Deputy M. Tadier:
What you are saying is that you can ...

The Minister for External Relations:
... is separate from a Resolution Authority, which a Resolution Authority, as Deputy Millar just said, 98 per cent of Jersey in-scope deposits fall within systemically important banks in their home jurisdiction, and therefore they would fall under that Resolution Authority as well. That is why that co-operation between Resolution Authorities, what we have got here and elsewhere, is really important.

Deputy M. Tadier:
But the limit we are going to get on to later, that is a Jersey limit which is applied where the bank account is held. So just because it may be a U.K. bigger bank that you have, it is still the £50,000 that we are talking about at the moment that is applied.

The Minister for External Relations:
Yes, but that is confusing 2 different things, because resolution is not about paying out depositors. Resolution is about keeping the bank alive and kicking, so you never have to pay out those deposits.

Deputy M. Tadier:
Yes, we understand, thank you. Okay, I will pass over to Deputy Andrews.

Deputy M.B. Andrews:

Yes, thank you very much. Minister, I just want to start off just by asking you: what is the current process should a bank fail in Jersey, and what changes could we potentially be seeing in what is now being proposed?

Assistant Minister for External Relations:

I think the chances of a bank failing are remote in Jersey, partly because, as Deputy Gorst has just said, many of our banks are part of organisations which are systemically significant in their home jurisdictions. Those banks, I would find it difficult to see a situation where a branch of a much bigger organisation is unlikely on its own to become insolvent because it is part of a much bigger parent, and the parent is a much bigger entity. But then when you look at a bank here, and there are one or 2 which are separate subsidiaries, they are still a subsidiary of a much bigger organisation. Now, the failure of a Jersey subsidiary may not, of itself, make the whole group insolvent, but it creates a massive reputational risk. For a systemically, globally significant bank to say: "We are going to allow our subsidiary to fail", it seems very, very unlikely. What we do not have in Jersey is we do not have private independent banks. In places like, I think particularly America, you could have what somebody would say mom and pop banks, you could have small banks, which really operate in a very local area, they really do depend on deposits coming in to do their lending, they have a very unsophisticated model; those are more likely to fail. We do not have those types of banks that are owned almost by individuals. We do not have that. So I think we are looking at sound organisations, and we have a resolution framework. I cannot see a situation where someone would turn up at court completely out of the blue and say: "We are going to appoint a liquidator of this bank", without either the J.F.S.C. (Jersey Financial Services Commission) or the Jersey Resolution Authority knowing. And if it was non-voluntary, because the bank could obviously decide to wind up and liquidate on a solvent basis, the Resolution Authority, the regulator would know, and the resolution framework would be brought to bear to try to get that bank back on an even footing.

The Minister for External Relations:

So it is in the resolution framework basically, the answer to your question, but it is very technical. Because, if you are thinking about resolution, there are a number of options that you can think about in order to resolve the situation so that the bank remains. But we now have this regime in place, and bringing them together is helpful in this regard, that the first option for a viable bank is to resolve it. So you may be talking about finding another institution to take over assets or liabilities or all sorts of different options that the Resolution Authority will follow best international practice and work with home country Resolution Authorities or central banks in order to deal with that.

Deputy M.B. Andrews:

Sorry, just my next question, because it is very important to hear what you just said there, Assistant Minister. But are you both satisfied with the other jurisdictions where these global banks are based, that they have adequate protections to make sure that the banks do remain solvent and that there potentially are no systemic issues that, should they fall, and some of the Jersey branches could then be affected?

The Minister for External Relations:
I think we are as confident as we possibly can be because of the regime that we have got in place and the work that the Jersey Resolution Authority does with its international counterparts, particularly if you think the systemically important banks in Jersey are also systemically important in their home jurisdiction. Their home jurisdiction, just trying to think off the top of my head, are G7 countries where their central banks and Resolution Authority are following best international practice. We remind ourselves that during the financial crash in the U.K. they did not let systemically important banks fall over prior to having these systems in place. The taxpayer stepped in and bailed them, you could say, to ensure that they did remain. So I think that can give Islanders a very high degree of confidence that the home jurisdictions are going to act in the way that we would expect them to act.

Deputy M.B. Andrews:
Obviously, we have got the Authority in place for a good reason, as do other jurisdictions as well. But would you be of the view that there are probably things that potentially could happen that are not within the control of the Authority that could lead to implications for depositors in Jersey should issues arise elsewhere in other jurisdictions, such as banks collapsing, and then that could have a systemic effect across the banking system?

The Minister for External Relations:
So is there going to be a bank failure in some other jurisdiction that then will have a knock-on effect to the home jurisdictions where our banks are systemically important, is that the question you are asking? Because, if it is, the answer is just the same as the one that I have provided, which is those home jurisdiction regulators are going to act in a way that maintains and preserves their systemically important banks, whatever might happen. We do know from experience.

Deputy M. Tadier:
It is still a political decision, but past political decisions do not necessarily ... you could have a different Government which says: “We are going to let the banks fail.”

The Minister for External Relations:

Firstly, they have got Resolution Authorities in place now which do not let the banks fail, that resolve them and have all of these measures in line with international standards to ensure that things do not happen in the way that they did in the financial crash. But you say we do not know, you could say that to any future event, decision, conversation or anything. The only thing that we can look to is (a) they have now got Resolution Authorities in place. We can have confidence in that because it is the law of the relevant lands, and (b) when things have happened in the past, they have not let those banks go into liquidation and they have taken many steps to ensure that (a) it does not happen in the first place by restructuring of the banking system, but also the Resolution Authorities that they have got in place.

Assistant Minister for External Relations:
You also have to remember that, even if there was a parent, if you are looking at a Jersey branch, a failed parent, the Jersey depositor still has rights against that bank in Jersey and they cannot just say: “We are going to ignore Jersey and funnel all the money into the U.K.”, Jersey still have rights as depositors in Jersey with that branch.

Associate Director, Financial and Professional Services Unit:
I just wanted to mention, obviously ... I think it is just to remind, the Resolution Authority will be working to mitigate the risk of bank failure. With risk it is about constantly assessing what is there and developing that framework. That is how any framework tends to operate. With regards to the fact of how another country might respond, the Resolution Authority, a large amount of their work is to engage with foreign Resolution Authorities or home Resolution Authorities. But it is not just a case of a political decision determining how a jurisdiction may respond to a bank failure. That may have been a bit more how it would have played out in 2008. Now, the banks will have resolution plans in place and this is part of what our Resolution Authority has been doing for its inaugural years, is making sure that resolution plans are in place, but also that they consult the group resolution plan, or at least try to seek to understand how that will work so that they are fully aware of the risk that is exposed. That is the importance of having a strong Resolution Authority which has the skills and that is what we believe we have.

Deputy M. Tadier:
Essentially what you are saying, just to recap, is that you are not saying that it is impossible that banks would go into failure, but it is just much less likely nowadays with all the frameworks that have been put in place internationally and that the Jersey type of business also makes it less likely for a bank to fail. That then leads to the question, I suppose, is do we still need a Depositors Protection Scheme in Jersey?

Assistant Minister for External Relations:

I think once you have created a scheme like that, it is very difficult to remove it. Having it is a good idea. Having it will give anybody who is still nervous, who lived through 2008, anybody who is nervous about that, it will give them comfort. It means that Jersey is still keeping up with international standards because other jurisdictions have them, and it would be quite peculiar to remove it. In fact, we can be confident that we do not think it will be called on, but having that mechanism there in a worst-case scenario is useful. I think it would be a difficult thing to withdraw now.

The Minister for External Relations:
There is also the element of systemically important or not. So if a banking institution is not systemically important, then the approach taken to resolution would be different. Therefore, in that instance, you do need a Depositors Compensation Scheme.

Deputy M. Tadier:
So because it may not be systemically important, but if it is your deposits held with that account as a consumer.

The Minister for External Relations:
That is why you need the Depositors Compensation Scheme.

Assistant Minister for External Relations:
Although I think that the reality is that there are several banks on the Island that are banks, but if you went in and said: "I would like to deposit £10,000", they would say: "No, go and talk to one of the ones on King Street". They are aiming at a different type of depositor than local residents.

Deputy M. Tadier:
So there are banks in Jersey which you would say are not systemically important.

Associate Director, Financial and Professional Services Unit:
There are definitely banks on the Island that are not systemically important to Jersey. I think one of the things recognised is that the typical banks that most people would bank with would be systemically important. Some of them are globally systemically important. So that would naturally put them down the resolution route for mitigating failure. If a smaller bank that is not systemically important to Jersey, and therefore that essentially infers it tends to be of a smaller nature or probably not necessarily as important to the continuation of business in Jersey if it were to be removed from the landscape, then that would essentially be allowed to take more of an orderly dissolution.

[13:00]

Deputy M. Tadier:
Is the J.R.A. still going to provide mitigation to a failure of that type of bank?

Associate Director, Financial and Professional Services Unit:
Yes. So, with failure, it is not that it is just the Jersey Resolution Authority, but currently the landscape is quite broad. I think one of the things we were mentioning earlier about the types of bank, the first protection that a jurisdiction has is its licensing regime to manage the risk that the jurisdiction is exposed to. Then, as you work through this prevention, there is work that the competent authority, the J.F.S.C., performs, and the Resolution Authority during that kind of preventative phase will implement things such as minimum financial buffers within banks, as well as ensuring that they have resolution plans in place to mitigate the risks that a failure will present. Before even moving to resolution, there is also an early intervention phase, and there is a role there for the competent authority. In Jersey that is the J.F.S.C. to get involved, and that can be anything from taking control of management through to providing other support provision. There is a whole suite of things to reduce the risk of getting to that space, and that is why it is all quite very complex. But these things have been developing since 2008, 2009 alongside obviously this existence of compensation schemes.

The Minister for External Relations:
The other thing I would say, just to add to that, is that even if there are a small number of banks in Jersey which are not systemically important to Jersey, and the point that Deputy Millar made about what sort of criteria they use to access their client base, they are systemically important to their home jurisdiction as well. It is not just whether they are to us, it is also whether they are to their home jurisdiction, and that again comes back to that point of co-operating with international Resolution Authorities and central banks.

Deputy M. Tadier:
One of the main points we are trying to grapple with as a panel, and perhaps the Assembly is as well, is if the scheme is necessary and we want to get rid of the scheme, what is the correct level of compensation to protect? Is it always going to be £50,000, which it was in 2009, is it less than that, is it more than that?

The Minister for External Relations:
I know that from a perspective of comments that you made in the States Assembly, it feels like it should be an easy question to answer. Our position is that we will need, and we do need, a Depositors Compensation Scheme, and it will function, should it be needed, more effectively and efficiently to those that need it because you will have this direct processing rather than having to apply. So there are lots of positive changes. The question about the level is not straightforward for

all of the reasons that Deputy Millar articulated in the States Assembly, but we accept and we agree that a review of it is a good thing to do. You have asked that question, others have asked the question, and doing that review is an appropriate thing to do. But I do not think we would want to second guess what the answer to that review might be, whether it should be lower or higher.

Deputy M. Tadier:
But the review is presumably based on the fact that you think that there is something that needs to be reviewed, and are you reviewing the sum or are you reviewing the mechanism which would be required in order to increase the sum protected?

The Minister for External Relations:
You cannot just look at the sum without looking at what the levies would be, what the States loan or guarantee would be connected with it, and a better understanding from banks as well, or another look at deposit levels, et cetera, and all those sorts of bits of information. It is not just a straightforward: "Let us just guess it."

Deputy M. Tadier:
But you would not review something that you did not want to do though, would you? You would accept that there is a political desire to increase?

The Minister for External Relations:
No, there is a political desire to have the review, and then once the ...

Deputy M. Tadier:
But you would not have a review for no point though, would you?

The Minister for External Relations:
Once you have the review ...

Deputy M. Tadier:
You would not have a review if you did not want to change anything, you would only review something that you were considering changing.

Assistant Minister for External Relations:
Not necessarily ...

Deputy M. Tadier:

If you were happy with the £50,000 limit and the scheme is working well, you would not bother having a review, would you?

The Minister for External Relations:

No, I do not think that is true.

Assistant Minister for External Relations:

You would still review to see whether the limit is still right. Now, you could do a review of what your limit is. What we are trying to do here ...

Deputy M. Tadier:

That is the same thing then.

Assistant Minister for External Relations:

... is to get the scheme effective ...

Deputy M. Tadier:

What I am saying is, if you were happy with the £50,000 you would not need a review, would you?

Assistant Minister for External Relations:

We have said we would review it because for exactly the reasons that you have said, it has been in place for a long time. It is right to review it occasionally and say: Have we still got the level right?" Now we may conclude from that review that the level is still right taking into account what the banks feel like, what the levies are, how you fund it, what the impact is, and there is nothing wrong with reviewing and saying what we have got is still right, we are going to stick with ...

Deputy M. Tadier:

Can you articulate clearly what the motivation is for the review of the sum of £50,000?

Assistant Minister for External Relations:

It is checking whether it is still the right amount.

Deputy M. Tadier:

Why would it not be the right amount?

Assistant Minister for External Relations:

Because things have changed. It may be because of in the whole context of where we are comparably with other people, we are at the moment comparable with Guernsey and the Isle of Man ...

Deputy M. Tadier:

It is really just a reality check, can you articulate the fact that we have had 16, 17 years of inflation since 2009 and therefore the figure of £50,000 is not in real terms what it would be worth to somebody?

Assistant Minister for External Relations:

Equally, inflation I think, just to say, we will just put it up ...

Deputy M. Tadier:

Do you accept that point?

Assistant Minister for External Relations:

... I do not accept inflation ...

Deputy M. Tadier:

You do not accept the fact.

Assistant Minister for External Relations:

... is the right measure at all because if you say: "My savings have gone up by the level of inflation" ... if everybody's savings had been index linked, if in 2009 the average deposit was £10,000 and now the average deposit is still £10,000 then there is no obvious need to increase the limit. If we looked and found that the average deposit had gone up to £80,000 or £90,000, you might think maybe £50,000 is not enough. So you have to take ...

Deputy M. Tadier:

When you talk about the average, which average are you talking about there?

Assistant Minister for External Relations:

The average deposit that is ...

Deputy M. Tadier:

But which average are you talking about: a mean, the median, the mode?

Assistant Minister for External Relations:

I am just talking about an average deposit. If what is the ...

Deputy M. Tadier:

But there is not an average, are you talking about the mean sum?

Assistant Minister for External Relations:

I cannot remember what means and medians are. Tell me what the mean is.

Deputy M. Tadier:

The mode is the general, the most deposits will be in this particular sum, so you know.

Assistant Minister for External Relations:

Well if the mode is £15,000, there is absolutely no need to increase a limit of £50,000 because the majority of people will get their money back under the scheme. So there is no point ...

Deputy M. Tadier:

So are you going to have to do all that kind of research to find out exactly how many bank accounts are held, how much is in each bank account?

Assistant Minister for External Relations:

Yes. You would look at how much in each bank account, you would look at the total amount of depositors, where the depositors are ...

Deputy M. Tadier:

But do you have the support of your Ministerial colleagues to look at this? Do you need the support of your Ministerial colleagues?

The Minister for External Relations:

We do not need their support. It is a number of years since it was reviewed. Other jurisdictions have increased theirs over time, although comparable jurisdictions largely have remained as at £50,000, but it would be right for us, because of that length of time, to do this review. We know that in the E.U. (European Union), although they have got euros, double what our £50,000 is, they have got a €100,000, they reviewed it in 2014. They maintained theirs at the same level, but we know that the U.K. has got plans to increase its. So I do not think there is anything inappropriate about doing the review. I think it is the right thing to do, but you do need to understand, particularly the mean level of deposit, to understand whether it does need to increase or not, and then understand what are the implications of making that change.

Deputy M.B. Andrews:

So how important is your engagement, for instance, with your counterparts in the Isle of Man and Guernsey when you are doing this review?

Assistant Minister for External Relations:

We would engage to see what they are doing.

The Minister for External Relations:

The first thing is we would ask the Authority to do the review, because they are the ones that have got the most information now and got the most expertise in this field. It would be fundamental to understand what is happening in Guernsey and the Isle of Man, albeit of course we remind ourselves that their finance centre, their financial services base, is different from Jersey, and so you have to factor that in as well. Their numbers, mean deposits, et cetera, could be substantially different from Jersey's as well. So it is important that we have that engagement, and that the Authority will engage with them in the course of this review.

Deputy M.B. Andrews:

If there was a differentiation between the deposit thresholds that are set between the 3 jurisdictions, if say Jersey was to increase the threshold, what potential impact do you think that would have, or would it not?

The Minister for External Relations:

They are the questions that we would want answers to because we know that, systemically important, some of the big retail banks have operations across the Islands, some subsidiaries here in Jersey have got branches in the other Crown Dependencies as well. So it was important that we would have a joined-up approach, but there are potential differences that might mean we have a different approach. But I think it will be difficult for us to take a different approach because of those synergies.

Deputy M. Tadier:

Can I just ask, in 2009 when the £50,000 cap was selected, what basis was that chosen on?

Assistant Minister for External Relations:

I do not know, I was not involved. I imagine it would have been done on a comparable basis with other schemes that existed at the time.

Deputy M. Tadier:

So could we not apply the same logic nowadays, because I think when that £50,000 ... I suspect you are correct, it was because that is what initially the U.K. scheme was. The U.K. scheme then very quickly came up to £85,000.

Associate Director, Financial and Professional Services Unit:

While I think there is a level of looking at what other jurisdictions are doing, and I am trying to recall what I have seen in terms of the files with regards to what was done in 2009 - you will appreciate it is a long time ago - there was work commissioned with the very people that were advising the U.K. on where to set their levels. So there was work working with them, but it was very much looking at Jersey and not necessarily looking at: “This is what we have done in the UK, take it here.“ So there is consideration, I think. It is not just about looking at averages and means, and there is also consideration as to part of the data collection work is to go out there and say we need data of how many deposits are at that higher level then, and therefore what is the coverage and who is the coverage. So it is getting a full, more rounded, holistic view of it so that we can inform a better decision.

Deputy M.B. Andrews:

Can I also ask as well, how much is being generated from the banks with the levies?

Associate Director, Financial and Professional Services Unit:

So the answer to how much can be raised by levy is dependent on which bank has gone into failure. A large bank going into failure, then that is a bank that is not going to be levied. But the amounts that you are really looking at are around £53 million to £56 million, on top of that you have also got the ...

Deputy M. Tadier:

Is that what is levied? At what point does the levy take place?

Associate Director, Financial and Professional Services Unit:

The levy will take place over a period of 5 years. So the way that it works is that the States loan would ...

Assistant Minister for External Relations:

Sorry, Tom, the levy would be charged at the point the D.C.S. scheme is triggered. So when there is a need for the money that we are not taking levies ...

Deputy M. Tadier:

From the banks that are not going into ... from the healthy banks, yes.

Associate Director, Financial and Professional Services Unit:
So it is not a pre-funded scheme like many other schemes around the world. Therefore that is one of the big reasons why you have a States loan to provide that liquidity. The liquidity will be there from day one to get things up and going and to get compensation payouts moving. The levy then will come in and will offset ...

Deputy M. Tadier:
So there is no initial cost to this. So if, for example, we were to decide, Ministers were to decide, to increase the compensation limit from £50,000 to £85,000, there is no initial cost to that.

Assistant Minister for External Relations:
There would be, yes, because there is a contingent liability. There is a contingent liability which means, as is apparent I think in the Budget every year, there is an amount that has to be earmarked in the event of being called on. So there is a cost to Government and ...

Deputy M. Tadier:
It is money that cannot necessarily be used.

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 ...

Deputy M. Tadier:
Is that a consideration as well, is that you do not want to tie up money that might be needed?

Assistant Minister for External Relations:
I think it would have to be, we would have to take into account what it means for the public finance.

Deputy M. Tadier:
Is that because public finances are a bit strapped in the next year?

Assistant Minister for External Relations:
It is because it is a big chunk of money we would have to pay out and if we have to hold that money on reserve, we cannot then allocate it for other spending. It is not to do with the state of Government finances, it is just a contingent liability that would have to be funded. So that has a big impact

because, if we cannot then use that money, if we have got to pay money out, we cannot use it to fund other things. We have to have it sitting there, available.

[13:15]

Deputy M. Tadier:
So can I ask, I did not mean to cut you off, Thomas, but have you finished your point?

Associate Director, Financial and Professional Services Unit:
I believe so, yes. If it becomes apparent that I have not, I will take the opportunity.

Deputy M. Tadier:
So can I ask then, Ministers, when do you anticipate this review could be carried out realistically and then concluded?

Assistant Minister for External Relations:
I think we anticipate that the J.R.A. will do some work on that. It is within its remit for it to go and do some of the underlying sort of research, if you like, in terms of what our limit is, how it could change, the comparable work. I would anticipate that happening towards the start of next year. It was the second half of next year. Sorry, I meant the second, not the start.

Deputy M. Tadier:
We have got a submission made from you, which I presume is a public submission - we were just talking about that before the meeting - so there is no reason to presume it would not be.

The Minister for External Relations:
We have assumed that, as your letter to me would be public, my response to you would be public.

Deputy M. Tadier:
So just to confirm, it did say the second half is when you would anticipate starting it, and it would maybe be concluded by 2027. The problem I think we have got as a panel with that is that of course the second half of next year is potentially after the election, of course, so there will be an election in the first half of next year.

Assistant Minister for External Relations:
But I think we have tried to explain it is a very complex matter and to try to push something through before an election, for the sake of an election, is unhelpful.

The Minister for External Relations:

I would go so far as it is a work programme that they will be given at the start of 2026 to do the work in 2026. I would be very surprised that a newly elected Government would come in and say in September of 2026, which would probably be the earliest time they could do it, that they would say in September of 2026: "I am sorry, Jersey Resolution Authority, we no longer want you to do that work", because it would be in their work plan for 2026. It does not seem credible that one of the first things a new Government would do would be stopping a piece of work ...

Deputy M. Tadier:

Well, they might stop it if it had not been started by the end of June, and then there is an election that takes place at the beginning of June, that they may well not proceed with that.

Assistant Minister for External Relations:

No, but it is part of their remit.

The Minister for External Relations:

Well, I do not see how that would be because bodies like this do not just come and ask the Minister: "Right, what do you want me to do this week?" There is an agreed workplan with these sorts of organisations and they get on with it. It would require an incoming Minister to decide after an election that they no longer wanted the Resolution Authority to do the piece of work, and it seems to be incredible that an incoming Minister would do that.

Deputy M. Tadier:

I think what the panel would say is that we would find it much more reassuring if there was a commitment to start the review in the first quarter of 2026, not in the first half of 2026.

Assistant Minister for External Relations:

In the first quarter they will be dealing with this piece of work that is envisaged by the law in terms of making the changes to the scheme, merging the 2 bodies. That is work that they already have to do and that is the work that has to be done as a priority. We are aiming to do that work first to make the scheme efficient before they then think about whether the limit is … and, as we have said, the outcome of the review could be that the limit is absolutely fine and we do not need to change it.

The Minister for External Relations:

Is the panel really asking that the work be commenced before the election? They have got to do this piece of merging work for all the reasons that we spent this hour discussing, the resolution making sure that the Resolution Authority and the Depositors Compensation Scheme are brought together so that it is more effective and efficient for depositors, if it is required. That has to be the priority. It has been the priority for the last number of years. It is eminently logical that that would be, but is the panel really asking that we request that the work to review the limit starts before the election? Just to be clear because we can then go away and consider what could be done.

Deputy M. Tadier:
Let me be clear; we have identified what we think is an issue of public interest, certainly around the £50,000 limit which seems to have been eroded. R.P.I. (Retail Price Index) has been 67 per cent over that period and the people we have heard from in public submissions saying: "Yes, absolutely, that limit should be increased."

Assistant Minister for External Relations:
Have they said that their deposit has gone up by 67 per cent? It has to reflect deposits. R.P.I. is a very unsophisticated measure.

Deputy M. Tadier:
I think the implication is yes, otherwise they would be quite happy with the £50,000 if it covered all of their savings, but we can come back to that. I think it is up to Ministers to decide how they get the information that they feel that they need to get. It is questionable indeed whether the J.R.A. need to do that work. You could argue it is completely inappropriate for the J.R.A. to do that piece of work when they are the Resolution Authority themselves and that they should be banned within Government to do that work separately.

Assistant Minister for External Relations:
As a consequence of this, they will be running the scheme, so it is their scheme and it is appropriate.

Deputy M. Tadier:
It is their scheme.

Assistant Minister for External Relations:
It will be once we have merged; it will be their scheme.

Deputy M. Tadier:
But ultimately this is a policy decision for Ministers to make as to whether they want to increase the limit and whether or not what the implications would be for that.

The Minister for External Relations:
Based on appropriate, accurate, up-to-date understanding and a review of the current limit, doing all the work that we said, it is absolutely appropriate that the Resolution Authority does this work

because they are now the Jersey experts on (a) ensuring that banks if they are experiencing difficulty can be resolved appropriately so they do not fall over and (b) for those non-systemic institutions where they cannot be resolved, where they do have to go into liquidation, that the Depositor Scheme works well. They absolutely have a vested interest in making sure that the limit is appropriate for Jersey. Their advice, the work that we will ask them to do, is absolutely the right thing to do and we may get to the point where their advice is that the threshold should raise but we cannot, and it would be wrong of us …

Deputy M. Tadier:
With due respect, I think it is a political decision to decide whether or not the threshold needs to be raised albeit based on …

The Minister for External Relations:
Yes, but based on evidence.

Assistant Minister for External Relations:
Based on a fully-informed decision.

The Minister for External Relations:
Not just based on a change in the R.P.I. It has got to be based on the evidence and it has got to have an understanding of what the implications are then for the bank levy, therefore cost of banking in Jersey, the implications for the States loan, therefore the cost to taxpayers and who is going to benefit from that because your average saver and the average citizen that currently does not have up to £50,000 in a bank account but ultimately could argue that the taxpayer is going to pay more, cost of banking is going to increase and your average saver will see no benefit. It is not just a straightforward: “Oh, we introduced it back in 2009 and R.P.I. has increased, therefore we should increase it.” We have got to consider all of those things in order to inform the decision.

Deputy M. Tadier:
I think you have heard the position of the panel so I will leave you to consider your timelines. Could I just ask Deputy Millar, you said something during your summing up on 9th July that you were concerned about people outside of Jersey getting access to the scheme. I think your quote was: “If we are sending out cheques to very rich people in the Middle East and people locally are not getting money, that is a difficult political position.” First of all, is it an either/or? Is there any likelihood that just because we have to compensate people at the moment for £50,000 who live outside Jersey that there is a risk to any local savers?

Assistant Minister for External Relations:

Well, I think the point I was trying to make is that of all these banks, I believe the scheme attaches to anybody who is an eligible depositor regardless of where they live.

Deputy M. Tadier:
That is the way it should be, is that not right?

Assistant Minister for External Relations:
That is the way it should be, but the problem is many of the people who are not in Jersey will have very significant deposits where £50,000 is a drop in the ocean but we will be in the position under the scheme of sending cheques to very wealthy people outside the Island.

Deputy M. Tadier:
Is there a problem with that?

Assistant Minister for External Relations:
If it means it prejudices local interests then yes, I think there is.

Deputy M. Tadier:
How would it prejudice local interests?

Assistant Minister for External Relations:
If it means that because Government have had to put up £100 million which they cannot then spend on something else. If it means taxes have to go up …

Deputy M. Tadier:
Would you be suggesting 2 tiers?

Assistant Minister for External Relations:
I am not suggesting that. I am suggesting that would be part of the review.

Deputy M. Tadier:
I am just not sure what is the relevance of whether someone lives in Jersey or not to the decision to increase?

Assistant Minister for External Relations:
I think what I am trying to get to is the optics of it that we would have a Depositor Compensation Scheme sending cheques to very wealthy people outside Jersey and there may be people here who have £70,000 who will see they have not got the £20,000. Now, the £20,000 is not necessarily a

risk. It does not mean they will not get the £20,000 back, but in the first instance they will get a maximum of £50,000 and those people will feel aggrieved by the fact that very wealthy people are getting cheques, and they are not getting their entire deposit back.

Deputy M. Tadier:
The rich person might get aggrieved.

Assistant Minister for External Relations:
But we cannot give everybody … if the person in Dubai has a deposit of £3 million, we cannot give them their entire deposit.

Deputy M.B. Andrews:
Is this a view that you also share as well?

The Minister for External Relations:
It is a legitimate political point we are making …

Deputy M. Tadier:
I am just saying you might be more aggrieved if you lost £3 million rather than minus £50,000 …

The Minister for External Relations:
We seem to be making political points at the Scrutiny hearing.

Assistant Minister for External Relations:
If you have lost £3 million and you have got £150 million somewhere else.

Deputy M. Tadier:
But if you have not. I am saying if you have got £3 million in the bank and you have lost it all, but Jersey says: "Here is £50,000", you would probably …

Assistant Minister for External Relations:
I do not believe people who are depositing £3 million in Jersey are doing it because we have a Depositor Compensation Scheme. They are doing it as part of a much wider wealth management.

Deputy M. Tadier:
Do you think it should apply to those people at all?

Assistant Minister for External Relations:

That is the decision that was taken in 2009 that it would apply to all depositors and - I cannot remember - I think it is very difficult to say: "We will protect some depositors and not others." That is why there has to be limits and that, again, is why simply saying: "We will up this by R.P.I." is far too unsophisticated and does not reflect the complexity of the question.

Deputy M. Tadier:
We would not necessarily up it by R.P.I. but we might up it to a comparable jurisdiction like the E.U. or Gibraltar or the U.K.

Assistant Minister for External Relations:
But that has to be done in the context of Jersey's economy as a whole, how it is funded, what the implications are for the banks, what the cost of banking is, what the cost of deposit taking is, what the cost to the public is, what the potential result it costs the taxpayer is. It is a very complex equation that would have to be considered carefully and I am not saying I would think that if there was scope to think about who is covered then that is something that could be done, not necessarily in the context of what the limit is, but it is a very complex area which is why it was discussed for years and years and years before we finally got a scheme in place.

Deputy M. Tadier:
Okay. Thank you for that. We will move away from that. Minister, the draft law requires that compensation be paid within 7 working days using Single Customer View files. Can you confirm whether all banks have successfully completed live connectivity tests with the Jersey Resolution Authority to demonstrate that the system works in practice and will deliver as intended in the situation of a bank failure?

Assistant Minister for External Relations:
Technical question.

Associate Director, Financial and Professional Services Unit:
At this point in time, it is the Depositors Compensation Scheme Board that is performing the testing and they already require banks to maintain a Single Customer View file. They have to date gone through a round of testing to ensure that those banks have a suitable file in place providing feedback to those banks to ensure that any issues that they have, have been addressed. That is a continuous process. It is one to ensure the bank has the right file and it is one to ensure the file can go through the system that the Board, and therefore the Authority which the Authority would take on, works appropriately.

Deputy M. Tadier:

Okay. Thank you. We are getting towards time so what I would like to do is just maybe give Deputy Andrews the opportunity to ask some final questions about our cross-border co-operation.

Deputy M.B. Andrews:
There was just one thing I wanted to touch upon and that was the levy cap of £10 million, essentially what would happen just so people at home are aware. Any bank with deposits that exceed £10 million that are 0.3 per cent of their overall deposits would then be liable for paying up to £10 million over a 5-year period. That would be £2 million per annum. I just want to know how did you arrive at those figures?

Assistant Minister for External Relations:
In 2009, how did we? I do not know how those figures were arrived at. Probably through discussion with the banks.

Deputy M.B. Andrews:
Obviously, we have not spoken about inflation. We have spoken about deposits in particular with the mean of deposits but do you believe that figure that has been given to the panel is still good enough or do you think it potentially should be uprated?

[13:30]

The Minister for External Relations:
For my part, this is what the review has to cover. You cannot just increase a payment threshold without thinking about the implications for the levy, but you can also ask yourself: "Is the levy still appropriate in the current climate?" and take it the other way around, which is why I think the review is important and is timely because it will help answer those questions.

Deputy M.B. Andrews:
0.3 per cent seems to be awfully low and I just wanted to hear your views on whether you think if there was a case where a bank collapsed that it should be increased?

The Minister for External Relations:
The 0.3 per cent comes from … I cannot just remember where that comes from.

Associate Director, Financial and Professional Services Unit:
Within the law.

The Minister for External Relations:

Yes, but I think it mirrors …

Associate Director, Financial and Professional Services Unit:
Oh, who it mirrors. I have not got that, but I think one of the things to remember is you have got the levy but then what we are making quite clear with the changes that are coming through is that ability to recover money from the liquidator and make sure that that can be utilised.

Assistant Minister for External Relations:
Can I just add something? I think the thing is what we may confuse is the fact that we say 0.3 per cent of deposits. They cannot take the £10 million out of the deposit pot. The bank has to find £10 million of its … if you are a bank that has to pay £10 million, you have to find £10 million of your own money to hand over to the scheme to fund the scheme. Now, you are not taking that out of the deposit pot; that is your money and there is a limit to what we can realistically ask banks to commit of their own money towards funding a scheme, and I would imagine that is where it came from. This is the bank's money and not the deposits that we are talking about. They have to fund that.

Deputy M. Tadier:
The banks presumably do not have to keep that £10 million aside at any one point, do they? They could say: "Look, in this very hypothetical situation, we would find that money and make a decision."

Assistant Minister for External Relations:
No, it is a … I imagine for the banks; it is the same as Government. It is a contingent liability and if they think their liability … I would imagine, if I was a bank and I knew I had a contingent liability, I would have to account for that. You cannot just say: "Well, we know we might be asked for £10 million over 5 years so we will just find it when we need it."

Deputy M. Tadier:
Do you agree with that, Deputy Gorst?

The Minister for External Relations:
I am trying to think about the last time I looked at a bank's set of accounts, but I would be very surprised if those global banking institutions do not have to put a contingent liability for all their liabilities wherever they operate. It would seem very unusual from an accounting perspective if they did not.

Deputy M. Tadier:
Could it just be a general liability that they hold or do you think they specifically account for that?

The Minister for External Relations:

No, I think they will have to … well, when you say accounting, they will account it through …

Assistant Minister for External Relations:

I would assume it has got to be specific.

The Minister for External Relations:

Probably not dissimilar to how we have to do it in our accounts so, yes, they have got reserves but against that reserve is a contingent liability that should X happen they have to do this.

Deputy M. Tadier:

Do you think there could be a different way to do that? I am thinking about the state of the Government budgeting now. Do you think, given the remote likelihood of any of this ever happening, that it is an effective use to have to earmark that amount every year rather than just saying: "Look, if this ever happens, we will deal with it out of the Strategic Reserve"?

Assistant Minister for External Relations:

No, we cannot possibly do that. We could not possibly do that. I could not see a world where we would say: "We have a potential contingent liability of £100 million and we are just going to ignore it and we will worry about it if it happens."

Deputy M. Tadier:

You do it on the balance of risk, do you not?

Assistant Minister for External Relations:

No. I cannot see a position where the accountants would agree …

Deputy M. Tadier:

Do you agree with that, Minister?

The Minister for External Relations:

The problem is it will be an accounting/audit issue.

Assistant Minister for External Relations:

Yes.

Deputy M. Tadier:

Yes.

The Minister for External Relations:
You know under law you have got this contingent liability, but you are not making any … either provision or a note saying …

Deputy M. Tadier:
You could just put that as a liability of the Strategic Reserve, could you not?

The Minister for External Relations:
That is how it is dealt with now.

Assistant Minister for External Relations:
Yes, but that then means the Strategic Reserve has to be viewed as minus £100 million because that is earmarked. You cannot just say: "We have got enough …"

Deputy M. Tadier:
But if we are not using the Strategic Reserve anyway, it is kind of academic, is it not?

Assistant Minister for External Relations:
Well, the Strategic Reserve comes into play in all manner of means.

Deputy M. Tadier:
But that is helpful because what we are saying is there is not £100 million extra that needs to be found every year to budget for this; it is already in the Strategic Reserve.

Assistant Minister for External Relations:
Well, it is in the Strategic Reserve, but it means we have to allocate it for this purpose and we cannot use it for other things and that is all …

Deputy M. Tadier:
We cannot use it for the things that we already do not use it for.

Assistant Minister for External Relations:
I would say it basically reduces the Strategic …

The Minister for External Relations:
Well, for example, if you are borrowing for the hospital, you are in effect getting the borrowing rate that you are getting because you have got the asset base that you have got.

Deputy M. Tadier:

Yes. No, that is fine. That is clarified, so thank you.

The Minister for External Relations:

You cannot use it in that type of calculation.

Deputy M. Tadier:

To finish, we will not have got through every question we can so as usual, if you are happy to receive the questions in a written form? Can I perhaps conclude just by saying have you already started having conversations in this regard with the Isle of Man and Guernsey about what they might be doing with their schemes or is that something you anticipate happening in the next few months?

The Minister for External Relations:

I do not think we have had anything above or beyond informal conversations with political colleagues. I do not think you have had them with official colleagues.

Associate Director, Financial and Professional Services Unit:

Yes, just very much initial, but not necessarily anything of detail.

Deputy M. Tadier:

Okay. Do you anticipate that Jersey could move alone in this? I presume because each jurisdiction has a different landscape in terms of its banking, and ultimately this scheme is here to protect depositors and we have got to be mindful, I suppose, of how it affects the institutions but it is there to protect ultimately and to give, at least, psychological - what is the word I am looking for - comfort …

The Minister for External Relations:

Reassurance.

Deputy M. Tadier:

… and reassurance to depositors.

The Minister for External Relations:

I mean, as I said to Deputy Andrews, it is possible, but I think it is difficult.

Deputy M. Tadier:

Okay, but if it came back, say, for example, Guernsey I already presume has a different landscape to Jersey in terms of its banking versus its other financial products, and if it turns out that Jersey has a lot of depositors who are at the, say, £60,000 to £100,000 savings marks in one institution whereas Guernsey does not have that, would that maybe be a compelling case to say we do need to look at increasing our …

Assistant Minister for External Relations:
I do not think we can look at it in isolation. That is what we keep saying. It must be considered broadly.

The Minister for External Relations:
No, but that is part of the consideration, is it not? That is what we said about deposit levels across and then how would institutions manage that if they … because often they are cross-selling products across the Crown Dependencies and therefore they would have to have a separate disclosure if that is what they were doing. That is why I say it is possible, but it is just probably difficult.

Deputy M. Tadier:
But it is not a selling point as such, you told us. The protection level is not really a selling point to somebody opening an account and therefore being competitive, so if Guernsey had a higher rate and we had a lower rate, that would not necessarily be a problem in terms of the competitiveness.

The Minister for External Relations:
No. I mean you could argue that if you … it depends through which lens you view it, but it is important that we view it through a number of lenses, foremost for depositor protection. But you can also view it through the lens of cost of business, so cost to banks, and therefore if Jersey's banking offering becomes uncompetitive from a cost perspective to other Crown Dependencies then it makes us less competitive, so we have to keep looking at it through the compensation lens but there are other lenses that it can be looked through as well.

Deputy M. Tadier:
Okay. That is probably a good place to finish, if that is all right, Deputy Andrews?

Deputy M.B. Andrews:
That is fine, yes.

Deputy M. Tadier:
Thank you. Do you have any other questions or points for us?

The Minister for External Relations:

No, thank you.

Deputy M. Tadier:

Thank you for attending today and I will just ask for the recording to be finished.

[13:38]