

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE BANKING DEPOSIT COMPENSATION SCHEME (BAILIWICK OF GUERNSEY)
(AMENDMENT) ORDINANCE, 2026**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) (Amendment) Ordinance, 2026" and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends the Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008 ("the 2008 Ordinance").

Sections 1(2) to 1(5) make amendments to the 2008 Ordinance relating to the governance and independence of the Board of the Deposit Compensation Scheme (the "Board").

Sections 1(6) and 1(7) insert new provisions relating to permitted disclosures of confidential information by the Board.

Sections 1(8) and 1(9) amend the 2008 Ordinance to provide that the Board will not be required to make a declaration of default where a bank is the subject of a resolution action or, in the opinion of the Guernsey Financial Services Commission, is likely to be subject to a resolution action; and that any declaration of default must be made as soon as possible, and in any event within 21 days.

Sections 1(10) to 1(13) remove the requirement for an application to be made for compensation in most cases but retain the ability of the Board to require the provision of information in an application form where it considers it to be necessary.

Section 1(14) makes consequential amendments to section 12(2) of the 2008 Ordinance and provides the Committee with the power to vary the maximum amount of compensation specified in section 12(2)(a) by regulation.

Section 1(15) inserts a new section into the 2008 Ordinance providing that where, as a result of a merger of two or more banks, a qualifying depositor holds deposits exceeding the maximum compensation payable, the total amount of compensation will for three months remain the same as would have been payable had the banks not merged.

Sections 1(16) and 1(17) make provision for new categories of qualifying deposit for which compensation may be paid.

Section 1(18) and 1(19) amend section 12 of the 2008 Ordinance, relating to the payment of compensation; section 1(20) introduces a power for the Committee, by regulation, to amend the period within which compensation must be paid.

Section 1(21) amends the 2008 Ordinance to provide that the Board may increase the contributions of other banks, instead of reducing the total amount to be raised by the levy, where a bank which is required to pay a compensation levy is itself declared to be in default before it has paid the levy, and the liability to pay the levy has been deferred or cancelled by the Board.

Section 1(22) amends section 20 of the 2008 Ordinance to clarify that the duty on banks to co-operate with the Board is subject to any Order of the Royal Court to the contrary.

Sections 1(23) amends the 2008 Ordinance to allow the Board to publish details of the content and format of Single Customer View files and the frequency with which, and timeframes within which, these must be provided to the Board; section 1(26) amends section 25(1)(a) of the 2008 Ordinance to provide that failure to comply is an offence.

Sections 1(24) and 1(25) amend the provisions of the 2008 Ordinance relating to subrogation.

Section 1(27) amends the provisions of the 2008 Ordinance relating to the information banks must provide to depositors; and makes it an offence to fail to comply.

Section 1(28) amends the 2008 Ordinance to make provision relating to offences by bodies corporate and partnerships.

Section 1(29) amends section 30 to provide that statutory immunity from liability does not prevent an award of damages in respect of an act or omission which is unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

Section 1(30) makes consequential amendments to the interpretation section of the 2008 Ordinance.

Section 1(31) amends Schedule 4 to provide for new categories of qualifying deposit and to provide that deposits held by partners in partnerships which are property of the partnership shall not be qualifying deposits.

Section 2 provides the Committee with a power to make any transitional provision by regulation as they think fit in connection with the commencement of any provision of the Ordinance.

The Ordinance comes into force on the day appointed by regulations made by the Committee.

The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) (Amendment) Ordinance, 2026

THE STATES, in pursuance of their Resolutions of the 18th July, 2024^a, and in exercise of the powers conferred on them by sections 48 and 60 of the Banking Supervision (Bailiwick of Guernsey) Law, 2020^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Ordinance.

1. (1) The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008^c ("**the 2008 Ordinance**") is amended as follows.

(2) In section 3(3A), for "as the Board thinks fit" substitute "as the Committee thinks fit".

(3) For section 3(9), substitute –

"(9) The Board shall be independent in the discharge of its functions, and when discharging its functions the Board must have regard to the following objectives -

(a) protecting the interests of depositors, and

^a Article III of Billet d'État No. XII of 2024.

^b Order in Council No. XX of 2020; this enactment has been amended.

^c Ordinance No. XLVIII of 2008; this enactment has been amended.

(b) contributing to the financial stability of the Bailiwick."

(4) After section 3(11) insert -

"(12) The Committee may by regulation amend subsection (9), including by inserting additional paragraphs."

(5) At the beginning of subsection (2) of section 4 insert "Subject to subsection (2A)," and after subsection (2) insert -

"(2A) For the avoidance of doubt, the powers conferred under subsection (2) do not include the power to set or vary the terms on which members of the Board shall hold office, and consequently do not include power to set or vary such members' remuneration or other conditions of service."

(6) In section 5(1), at the end of paragraph (c)(iii) delete "or", at the end of paragraph (d) for "." substitute ", or", and after paragraph (d) insert -

"(e) where the disclosure is made -

(i) to the Committee, but only in a form which does not -

(A) enable information relating to any particular person to be ascertained from it, nor

- (B) (except following the making of a declaration of default under section 9(1)) enable the amounts of deposits or qualifying deposits held by, or the Total Value at Risk of, a particular participant to be ascertained,
- (ii) to the auditor of a participant or former participant if it appears to the Board that the disclosure would enable the Board to discharge one or more of its functions, or would assist the Board in so doing, or would otherwise be in the interests of depositors,
- (iii) to the liquidator, administrator or receiver of a participant (whether that liquidator, administrator or receiver is in the Bailiwick or elsewhere), or
- (iv) to any other person who appears to the Board to be carrying out duties similar to those persons listed in paragraph (iii) in respect of the participant,
- (f) where the disclosure is made to a person or body responsible for administering an

equivalent scheme elsewhere than in the Bailiwick if -

- (i) it appears to the Board that the disclosure would enable the person or body or the Board to discharge one or more of its functions, or would assist it in so doing, and
 - (ii) the person or body has given a written undertaking that the information disclosed will not be further disclosed without the prior agreement in writing of the Board, or
- (g) where the disclosure is made to a resolution authority if -
- (i) it appears to the Board that the disclosure would enable the resolution authority or the Board to discharge one or more of its functions, or would assist it in so doing, and
 - (ii) the resolution authority has given a written undertaking that the information disclosed will not be further disclosed without the prior agreement in writing of the Board.

(1A) The Committee may by regulation amend paragraphs (a) to (g) of subsection (1), including by inserting additional paragraphs.

(1B) In subsection (1)(e)(i)(B), "**Total Value at Risk**" has the meaning given in regulation 2 of the Banking Deposit Compensation Scheme (Liability of Participants to Compensation Levy) (Bailiwick of Guernsey) Regulations, 2010."

(7) In section 5(2), for the words "(c)(ii) or (d)," substitute the words "(c)(ii), (d), (e), (f) or (g)".

(8) At the beginning of subsection (1) of section 9 insert "Subject to subsection (1A)," and after subsection (1) of section 9 insert –

"(1A) (a) Where the Commission is satisfied that to do so would be neither necessary nor appropriate, following consultation with the Board, the Commission shall not be required to make a declaration of default in circumstances where a participant is -

(i) the subject of a resolution action by a resolution authority, or

(ii) in the opinion of the Commission is likely to be subject to a resolution action,

and subsection (2) shall be construed accordingly."

(9) In section 9(2), after "a declaration under subsection (1)" insert

"as soon as possible, and in any event".

(10) Sections 10 and 11 are repealed.

(11) In section 12(1) –

(a) at the beginning of the subsection, insert the words "Subject to the provisions of this section and section 12A,"

(b) after the word "shall" delete the words ", subject to sections 10 and 11",

(c) for "to a claimant ("**a qualifying claimant**")", substitute "to a qualifying depositor", and

(d) for paragraph (b) substitute –

"(b) the Board is satisfied on the basis of evidence available to the Board that the participant in default holds that qualifying deposit."

(12) Immediately after section 12, insert the following -

Application Forms

12A. (1) Where the Board considers that it does not have sufficient information to determine whether a person is entitled to compensation, or the amount of compensation payable, the Board shall make available to that person an application form for the purpose of

claiming compensation ("**an application form**").

(2) Without limitation, an application form may require a person to provide -

- (a) his name and address,
- (b) information about the capacity in which he is claiming compensation,
- (c) the amount and any evidence in respect of the qualifying deposit for which he is claiming compensation,
- (d) the date (if any) upon which the qualifying deposit would become due, and
- (e) any evidence that he has made a claim to –
 - (i) the liquidator, receiver or administrator (or the equivalent elsewhere than in the Bailiwick) of the participant in default (as the case may be), or
 - (ii) any equivalent scheme elsewhere than in the Bailiwick in respect of

the participant in default,

and the application form shall be accompanied by such other documents and information, verified in such form and in such manner, as the Board may require.

(3) The Board may reject an application where the claimant does not provide any document, information or evidence requested by or under subsection (2).".

(13) Wherever it appears in this Ordinance, for "qualifying claimant" substitute "qualifying depositor".

(14) In section 12(2) -

(a) for the words "subsection (4)" substitute "subsections (2A), (4), (4A) and (7ZA)", and

(b) at the end of section 12(2)(b), insert ", or such other sum as the Committee may specify by regulation".

(15) After section 12(2) insert -

"(2A) Subject to the provisions of sections (4), (4A) and (7ZA), where, as a result of the merger of two or more participants, a qualifying depositor holds qualifying deposits with a participant totalling more than the amount specified in section 12(2)(b), the total amount of compensation payable in respect of those deposits shall, for a period of three months from the date of the merger, be limited to the sum of the total amounts that would have been

payable if the provisions of subsection (2) were applied to the qualifying deposits held with each participant immediately prior to the merger."

(16) After section 12(4), insert –

"(4ZA) Where a deposit of monies is made by –

- (a) a person with parental responsibility on behalf of a child,
- (b) a *curateur* on behalf of a patient, or
- (c) an attorney pursuant to a lasting power of attorney,

then the person with parental responsibility, *curateur* or attorney (as the case may be) shall be treated as a qualifying depositor on behalf of the child, patient or person who is the subject of the lasting power of attorney (as the case may be) and the deposit shall be treated as a qualifying deposit for which compensation may be paid to the person with parental responsibility, *curateur* or attorney (as the case may be) in addition to that payable in respect of any other deposit which may be held in the name of the person with parental responsibility, *curateur* or attorney in any other capacity."

(17) In section 12(4A) -

- (a) at the end of paragraph (b) delete the word "or",
- (b) after paragraph (c) insert -

"(d) in the case of a child, more than one person with parental responsibility has made a deposit on behalf of that child,

(e) in the case of a patient, more than one curateur has made a deposit on behalf of that patient, or

(f) in the case of any person, more than one attorney pursuant to a lasting power of attorney has made a deposit on behalf of that person," and

(c) for the words "trustee, parent, executor or administrator" substitute "trustee, parent, executor, administrator, person with parental responsibility, curateur or attorney".

(18) Section 12(7A) is repealed.

(19) After section 12(8), insert -

"(8A) The Board may also delay or refuse payment to a qualifying depositor –

(a) where the relevant participant would, but for the default, have had the right or duty to delay or refuse payment of the deposit,

(b) where the relevant participant has qualified the

account in question as dormant,

- (c) pending the determination of any dispute as to ownership of the deposit,
- (d) where the qualifying depositor does not provide any document, information or evidence required by the Board pursuant to the provisions of this Ordinance.

(8B) The Committee may by regulation amend subsections (8) and (8A), including by inserting additional paragraphs."

(20) After subsection (1) of section 15, insert –

"(1A) The Committee may by regulation –

- (a) amend the reference to 3 months in subsection (1), to specify a shorter period, and
- (b) where necessary or desirable as a result of an amendment under paragraph (a), amend the references to 14 days in sections 14(3), 14(3A) and 14(4) to specify a shorter period."

(21) In subsection (8) of section 18, after "paid that contribution" insert ", then, subject to subsection (8A)", and after subsection (8) insert –

"(8A) In the circumstances set out in subsection (8), the Board

may decide that the total amount to be raised by the levy should not be reduced and that (subject to the other provisions of this section) the contributions of the other participants should be increased accordingly."

(22) At the beginning of subsection (2) of section 20, insert "Subject, in any particular case and for the avoidance of doubt, to any order of the Royal Court to the contrary,".

(23) After section 20, insert –

"Co-operation: Single Customer View file.

20A. (1) The Board may publish in such manner as the Board thinks fit details of -

- (a) the content and format of the Single Customer View file which must be maintained by a participant in respect of each customer, and
- (b) the frequency with which and the timeframes within which Single Customer View files must be provided to the Board by a participant."

(24) For section 23(1) substitute -

"(1) The Board has in respect of a qualifying deposit the right of subrogation to the rights of any qualifying depositor in respect of that qualifying deposit under the Scheme."

(25) For section 23(2) substitute –

"(2) A qualifying depositor ("D") who receives compensation under the provisions of this Ordinance in respect of any qualifying deposit shall be deemed to have agreed that –

- (a) D's rights, which includes a right to settle or compromise his claim, in respect of that deposit will vest in the Board,
- (b) D will provide such documents, information and assistance, in such form and verified in such manner as the Board may require, to enable it to exercise those rights, and
- (c) D will pay the Board any amount he receives in respect of those rights."

(26) In section 25(1)(a), after "section 20" insert "(including, for the avoidance of doubt, any imposed requirement relating to the provision of Single Customer View data)".

(27) In section 27, for subsection (3) substitute –

"(3) The Board may issue directions as to the wording required to be given under this section, and such directions may include provision as to the required format and placement of that wording in explanatory material.

(4) In the event of two or more participants merging, each

participant shall notify qualifying depositors not less than 28 days before the completion of the merger, if the amount of their total deposit after the merger will exceed the sum specified in 12(2)(b).

(5) A person who, without reasonable excuse, fails to comply with this section, including a person who fails to comply with a direction issued under subsection (3), is guilty of an offence and liable on conviction to a fine not exceeding level 5 on the uniform scale."

(28) After section 27, insert –

"Offences by bodies corporate and partnerships, etc.

27A. (1) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member ("M") in connection with M's functions of management as if M were a director.

(3) Where any such offence is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

(a) in the case of a partnership, any partner,

- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that partner, officer or person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where any such offence is alleged to have been committed by an unincorporated body, proceedings for the offence shall be brought in the name of the body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of any such offence shall be paid from the funds of the body."

(29) Renumber the text at section 30 as subsection (1), and after section 30(1) insert –

"(2) Subsection (1) does not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000."

(30) In section 33(1) -

- (a) delete the definition of "**qualifying claimant**",
- (b) at the end of the definition of "**qualifying deposit**" insert the words "and "**qualifying depositor**" means a person who has made a qualifying deposit with a participant in default that is held by that participant,"
- (c) delete the definition of "**relevant security**", and
- (d) in the appropriate alphabetical order, insert –

""**person with parental responsibility**" has the meaning given in section 5 of the Children (Guernsey and Alderney) Law, 2008, and includes a *tuteur* and guardian, but does not include a parent,"

""**resolution action**" has the meaning given in section 182 of the Bank Resolution (Bailiwick of Guernsey) Law, 2025,"

""**resolution authority**" has the meaning given in section 182 of the Bank Resolution (Bailiwick of Guernsey) Law, 2025," and

""**Single Customer View file**" means a single record containing data held by a participant relating to a customer of that participant,"

(31) In Schedule 4 –

- (a) after paragraph 1 insert –

"1A. Any deposit made by –

- (a) a person with parental responsibility on behalf of a child,
- (b) a *curateur* on behalf of a patient, or
- (c) an attorney pursuant to a lasting power of attorney

which is treated as a qualifying deposit pursuant to section 12(4ZA).",

and

- (b) after paragraph 2 insert –

"2A. Deposits held by partners in partnerships which are property of the partnership shall not be qualifying deposits, and this Ordinance shall be construed accordingly.

Power of Committee for Economic Development to make transitional provision by regulation.

2. (1) After consultation with the Policy and Finance Committee of the States of Alderney and the Policy and Finance Committee of the Chief Pleas of Sark, the States of Guernsey Committee for Economic Development may by regulation make any transitional provision as they think fit in connection with the commencement of any provision of this Ordinance.

(2) Without limiting subsection (1), regulations under that subsection may repeal or amend any provision of the 2008 Ordinance (as amended by this Ordinance), but for the avoidance of doubt they may not repeal, revoke or amend

any other enactment.

(3) Regulations under this section must be laid before a meeting of the States as soon as possible and will, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Extent.

3. This Ordinance has effect throughout the Bailiwick of Guernsey.

Citation.

4. This Ordinance may be cited as the Banking Deposit Compensation Scheme (Bailiwick of Guernsey) (Amendment) Ordinance, 2026.

Commencement.

5. This Ordinance shall come into force on the day appointed by regulations made by the States Committee for Economic Development; and different days may be appointed for different provisions and different purposes.