

Statutory Document No. 683/10, as amended



FINANCIAL SERVICES ACT 2008

DEPOSITORS' COMPENSATION SCHEME REGULATIONS 2010

Approved by Tynwald 20 October 2010

Coming into operation 23 October 2010

The Treasury makes these Regulations under section 25 of the Financial Services Act 2008.

1 Title

These Regulations are the Depositors' Compensation Scheme Regulations 2010.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 23 October 2010.

3 Interpretation

(1) The Scheme established by these Regulations is to be known for all purposes as the Depositors' Compensation Scheme and references to "the Scheme" are to be construed accordingly.

(2) In these Regulations —

"the Act" means the Financial Services Act 2008 and a reference to a numbered section (without more) is a reference to the section of the Act so numbered;

"compensation costs" has the meaning given by regulation 10;

"the compensation sum" has the meaning given by regulation 13;

"default" shall be construed in accordance with regulation 8;

"deposit taker" means the holder of a licence under section 7 which permits Class 1(1) regulated activity;

"eligible protected deposit" shall be construed in accordance with regulation 9;

"the Fund" has the meaning given by regulation 5(1);

"middle market rate" means the middle market closing rate of exchange for the currency in question, on the day for which the calculation falls to be made, as published in the Financial Times but where no such rate is published it shall be at such rate of exchange as the Treasury determines after consultation with the Bank of England;

"participant" has the meaning given by regulation 7;

"the Schedule" means the Schedule to these Regulations;

"the Scheme Manager" shall be construed in accordance with regulation 4.

- (3) In these Regulations references to the presentation of a petition for the winding-up of a participant are to be construed in accordance with the table in regulation 9(9).

4 Scheme Manager

- (1) The Treasury may appoint a person or persons to manage the operation of the Scheme (referred to in these Regulations as "the Scheme Manager") and may make provision for payments in respect of the performance of the Scheme Manager's functions under these Regulations.
- (2) Unless the Treasury makes an appointment under paragraph (1) references to the Scheme Manager in the subsequent provisions of these Regulations are to be read as references to the Treasury.

5 Depositors' Compensation Fund

- (1) For the purpose of compensating depositors, in cases where a person who is, or has been, a participant is in default, there shall be a fund ("the Fund").
- (2) The Fund must be held, managed and applied in accordance with these Regulations by the Scheme Manager.
- (3) The following monies are to be paid into the Fund —
- (a) money obtained by levying contributions from participants;
 - (b) money provided by the Treasury;
 - (c) money borrowed by the Scheme Manager for the purposes of the Scheme;
 - (d) money received as income from investments;
 - (e) money received under any policy of insurance taken out for the purposes of the Scheme; and

- (f) any other money required by these Regulations to be paid into the Fund or received by the Scheme Manager in connection with the Scheme and determined by the Scheme Manager to be so paid.
- (4) The assets of the Fund shall be invested from time to time in such manner as the Scheme Manager determines, having regard to the need for prudence.
- (5) The Scheme Manager may borrow money or otherwise incur indebtedness including charges by way of interest, for the purposes of the Scheme, in such manner and on such terms as it thinks fit.

In particular the Scheme Manager may borrow money from the Treasury even though it exceeds the limit in regulation 6(3)(a).
- (6) The Scheme Manager may take out policies of insurance for the purposes of the Scheme.
- (7) The following are to be paid out of the Fund –
 - (a) money required by the Scheme Manager for the payment of compensation sums to depositors;
 - (b) money required for the arrangement, service and repayment of loans obtained by the Scheme Manager, or for the discharge of other indebtedness incurred for the purposes of the Scheme;
 - (c) premiums of policies of insurance taken out by the Scheme Manager for the purposes of the Scheme;
 - (d) the compensation costs incurred by the Scheme Manager; and
 - (e) such other sums as these Regulations permit.
- (8) If a balance remains after the payment of compensation in full to depositors and other compensation costs, that balance must be repaid to the contributing participants and to the Treasury on such basis as appears to the Scheme Manager to be just and equitable having regard to the amounts which each has provided to the Scheme. This is subject to the following qualification.
- (8A) For the purposes of paragraph (8) so much of the compensation costs as fall within regulation 10(2)(b) are to be attributed to, and borne wholly by the contributing participants.
- (9) The provisions of these Regulations do not limit the Scheme Manager's general powers of management.

6 Funding the Scheme

- (1) The Scheme is to be funded by levies on participants and money from the Treasury.

- (2) The Treasury must secure that, taking one financial year of the Scheme with another, in any period of ten consecutive financial years, the net total amount of money that it provides equals the net total amount of levies on participants, subject to paragraphs (3) and (4).
- (3) The net total amounts to be provided to the Fund in respect of all compensation costs arising from defaults in any period of ten years must not exceed—
 - (a) £100,000,000 from the Treasury; and
 - (b) £100,000,000 from all participants.
- (4) In computing the net total amount provided by the Treasury under paragraph (3)(a) there shall be disregarded any sum which is loaned to the Scheme by the Treasury.
- (5) The amount of contributions which may be levied on a participant in any one financial year of the Scheme in respect of all defaults is the greater of—
 - (a) £50,000; and
 - (b) a sum, not exceeding £500,000, that constitutes 0.175% of the amount which the Scheme Manager determines as representing the average, over such period preceding the levying of the contribution as appears to the Scheme Manager to be appropriate, of the participant's sterling and foreign currency deposits.
- (6) If any of the deposits referred to in paragraph (5)(b) is in a currency other than sterling, it is to be converted into sterling for the purpose of computing the sum due from the participant by reference to the middle market rate for such date as appears to the Scheme Manager to be appropriate.
- (7) In calculating a sum in accordance with paragraph (5), the Scheme Manager must exclude funds deposited by other deposit takers but only if those funds originate from deposits in the hands of those other participants and are available to be taken into account in the calculation of the contribution to be levied from those participants.
- (8) A participant must, if so directed by the Scheme Manager, provide such security as the Scheme Manager considers appropriate in respect of any present or future levy contributions which the participant is, or may become, liable to pay under the Scheme and any money recovered under such a security must be credited to the Fund.
- (9) If it appears to the Scheme Manager that the compensation costs in any financial year ("the relevant year") in respect of a default, together with (if the Scheme Manager considers it appropriate to take such costs into account) estimated compensation costs in respect of any one or more future years, are likely to be less than the maximum aggregate amount ("the Aggregate Maximum Levy") which the Scheme Manager is entitled to levy in that year by way of contributions from all participants pursuant to this regulation, paragraph (10) applies.

- (10) If this paragraph applies, the Scheme Manager, despite paragraphs (1) and (2), may determine to levy from each participant by way of contribution in respect of the relevant year an amount equal to such proportion of the maximum amount which the Scheme Manager would otherwise be entitled to levy from such participant pursuant to this regulation as the estimated aggregate compensation costs for the relevant year plus (if the Scheme Manager considers it is appropriate to take such costs into account) any estimated compensation costs in respect of any one or more future years bears to the Aggregate Maximum Levy.
- (11) A determination by the Scheme Manager to levy from participants amounts by way of contribution in respect of a relevant year in accordance with paragraph (10) does not limit the Scheme Manager's right to levy further sums by way of contribution in the same or any subsequent year.
- (12) Despite the previous provisions of this regulation, the aggregate of all the amounts which may be levied on participants by the Scheme Manager shall not exceed—
 - (a) £100,000,000 in respect of all defaults occurring during any period of ten consecutive financial years; or
 - (b) £200,000,000 in respect of all defaults occurring throughout the currency of the Scheme.

In computing the amounts in sub-paragraphs (a) and (b) deduct sums repaid during the corresponding period to participants from the proceeds of any liquidation (or similar process) in connection with the winding-up of a defaulting participant.

7 Participants

- (1) Every deposit taker is a participant unless it is specified in the Schedule to these Regulations.
- (2) For the purpose of compensation a former participant is deemed to be a participant in respect of liabilities to depositors incurred by the former participant while it was a participant.
- (3) For the purposes of the levy of contributions a former participant is deemed to be a participant in respect of the default of any other participant which occurred while the former participant was a participant.

8 Default

- (1) A participant is to be regarded as in default if the Treasury makes a determination that it should be so regarded.

A determination must specify the date on which the default occurred.

- (2) In particular the Treasury may make a determination under paragraph (1) if satisfied that—
 - (a) one of the following paragraphs of this regulation applies; and

- (b) the participant is unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred in connection with deposit taking business carried on by it.
- (3) This paragraph applies to a participant which is a body corporate incorporated in the Island, on the happening of any of the following –
- (a) the revocation or suspension of the participant's authorisation to conduct Class 1(1) regulated activity (within the meaning of the Regulated Activities Order 2011);
 - (b) the making of a winding up order against it;
 - (c) the passing of a resolution for a voluntary winding-up in a case in which no statutory declaration has been made under section 218 of the Companies Act 1931¹;
 - (d) the holding of a creditors' meeting summoned under section 226 of that Act;
 - (e) the appointment of a receiver (whether or not by the court);
 - (f) the making of any voluntary arrangements with its creditors.
- (4) This paragraph applies to a participant which is a body corporate incorporated elsewhere on the happening of an event which appears to the Treasury to correspond to one of those listed in paragraph (3).
- (5) This paragraph applies to a participant if it does not have sufficient resources available to it to meet its expected liabilities.

9 Eligible protected deposits

- (1) An eligible protected deposit liability is the total liability of the participant to the depositor in respect of the principal and accrued interest on sterling and foreign currency deposits in the name of the depositor at the time of the default and made with an Isle of Man office of the participant.
- (2) Interest arising on an eligible protected deposit liability after the date of default is payable on such basis and at such rate as the Scheme Manager may determine.
- (3) The Scheme Manager may require that proof of the debt which gives rise to any liability has been lodged with the liquidator, receiver or administrator (as the case requires) of the participant or to such person as appears to the Scheme Manager to correspond as nearly as may be to a liquidator, receiver or administrator.
- (4) Subject to paragraphs (5) and (6), in determining the amount of an eligible protected deposit due to any person –

¹XIII p. 235.

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- (a) separate deposits in the same ownership are aggregated and treated as one deposit;
 - (b) a deposit in the joint names of 2 or more individuals is treated as if each such person were the holder of a separate deposit of an amount equal to the total deposit divided by the number of persons in whose names it was held unless sub-paragraph (c), (d) or (e) applies;
 - (c) a deposit held by a partnership is treated as one deposit;
 - (d) a deposit held by a trustee of a settlement, a bare trustee or a nominee (in each case) for other persons is treated as one deposit only;
 - (e) a deposit by an individual for that individual's descendants (or any of them) is treated as if each of the descendants for whom it is held (the unascertained and unborn at the date of default being disregarded for the purposes of this paragraph) were the holder of a separate deposit of an amount equal to the total deposit divided by the number of individuals for whom it is held;
- (5) If the deposit is in a currency other than sterling, it shall be converted into sterling for the purposes of the Scheme by reference to the middle market rate on the date of the default.
- (6) In the event of the death of the holder of an eligible protected deposit the estate of the deceased has the same right of claim as the deceased would have had on date of default had the deceased been alive at that date.
- (7) Despite anything to the contrary contained in these Regulations, except paragraph (8), in determining the amount of the eligible protected deposit due to any person, there shall be excluded the amount of any deposit which becomes held by such person or comes to be treated as held by such person after the date of default.
- (8) For the sake of clarity, paragraph (7) does not prevent a fixed-term deposit repayable only at maturity from ranking as an eligible protected deposit even though the default occurs before the date of maturity.

But this paragraph does not entitle a depositor to compensation for the loss of any interest, bonus or similar payment which would have become payable if the deposit had actually been held to maturity.

- (9) For the purposes of these Regulations, references to the presentation of a petition for the winding up of a participant are to be construed in accordance with the following table.

<i>Event leading to the determination that participant is in default</i>	<i>Circumstance treated as equating to the presentation of a petition for winding-up</i>
Making of a winding up order against the participant.	Presentation of a petition for winding-up.

Passing of a resolution for a voluntary winding up in the circumstances described in regulation 8(3)(b).	The summoning of a meeting at which such resolution is to be proposed.
The holding of a creditors' meeting.	The summoning of the meeting.
The appointment of a receiver by the Court.	The making of an application for the appointment.
The appointment of an administrator for a company incorporated in England and Wales under Schedule B1 to the Insolvency Act 1986 (of Parliament) ² .	The making of an application for the appointment.
The occurrence of an event appearing to the Treasury to correspond (as nearly as the circumstances of the participant permit) to any of those listed in regulation 8(3) or (4).	The event which most closely corresponds to that listed in any of the preceding entries in this column.

10 Compensation costs

- (1) If a participant has defaulted, compensation costs are those costs which—
 - (a) fall to be met by the Scheme,
 - (b) are directly attributable to the default, and
 - (c) arise from the payment of compensation or the establishment of compensation claims.
- (2) In relation to a default, compensation costs include not only compensation sums, but also—
 - (a) any interest or other drawdown costs on indebtedness incurred to enable compensation to be paid; and
 - (b) costs of establishing compensation claims, including legal and accountancy services, and other costs.
- (3) The compensation costs of a year are those incurred in that year by the Scheme Manager, in respect of defaults of that or any previous year; and for this purpose —
 - (a) any amount payable to a depositor by way of compensation is treated as a cost incurred when, pursuant to a determination of the Scheme Manager, it is to be paid; and
 - (b) any amount payable by way of interest is treated as incurred as it accrues.
- (4) Amounts receivable under policies of insurance and amounts estimated as recoverable under regulation 14 reduce the compensation costs in the relevant year.

11 Payment of compensation

² c. 45.

- (1) If a participant is in default and the Scheme Manager is satisfied, on an application by or on behalf of a depositor and on the basis of evidence submitted by or on behalf of the depositor or which is otherwise available to the Scheme Manager, that the participant—
 - (a) has a liability to the depositor in respect of an eligible protected deposit; and
 - (b) is unable, or likely to be unable, to meet that liability, in whole or in part,then, as soon as it is so satisfied, and subject to the provisions of these Regulations reducing or extinguishing entitlement, the Scheme Manager shall pay the depositor a compensation sum out of the Fund in respect of that liability.
- (2) Despite paragraph (1), once 28 days have elapsed after a default, if the Scheme Manager—
 - (a) is satisfied of the matters specified in sub-paragraphs (a) and (b) of that paragraph, and
 - (b) considers that immediate payment in full would not be prudent, having regard to other claims which may be made on the Fund,it may make a payment out of the Fund to the depositor on account of the compensation sum payable ("an interim payment").
- (3) For the purposes of these Regulations an interim payment is to be treated in all respects as the payment of a compensation sum, but this does not limit the Scheme Manager's powers to make a determination in respect of the balance of the depositor's claim.

12 Exceptions from entitlement to compensation

- (1) A depositor's application for compensation must be rejected if it is submitted—
 - (a) more than 6 months after the depositor became aware, or ought reasonably to have become aware, of the default, unless the Scheme Manager determines that, by reason of exceptional circumstances, it ought to be allowed; or
 - (b) (in any event) more than 18 months after the date of the default.
- (2) Compensation must not be paid —
 - (a) in respect of a default occurring before 23 October 2010, but subject to regulation 21(2);
 - (b) in respect of a deposit if (or to the extent that) it is used for the purposes of securing monies loaned by the defaulting participant under a separate transaction;
 - (ba) in respect of a deposit constituting a client account;
 - (c) to persons authorised or registered under the Insurance Act 2008 or Retirement Benefits Schemes Act 2000, or licenceholders of the Isle of Man Financial Services Authority;

- (d) to banks authorised, licensed or recognised in a country or territory outside the Island;
- (e) to any person who, in the opinion of the Scheme Manager, has any responsibility for, or may have profited directly or indirectly from, the circumstances giving rise to, the participant's default;
- (f) to any person who was, at the time of the participant's default, a director, or controller of the participant, or who, in the opinion of the Scheme Manager, was then exercising the functions of such a director or controller, and any person connected with a person who was then a director or controller, or exercising the functions of a director or controller, of the participant;
- (g) to any company that at the time of default was a parent, subsidiary or fellow subsidiary of the participant, or a company in common ownership with the participant.

For the purposes of sub-paragraph (f) a person is connected with another if the person is the other's associate within section 48 but is not that other's employee.

- (3) The Scheme Manager may decline to make any payment in respect of a deposit unless the individual claiming to be the holder of the account provides adequate information to enable the Scheme Manager to determine—
 - (a) whether a payment is due under the Scheme; and
 - (b) (if sub-paragraph (a) applies), the amount of the payment.
- (4) If the Scheme Manager is satisfied that a payment (whether by way of compensation, loan or otherwise) under any scheme for protecting or assisting depositors or investors has been or will be made to a depositor in respect of the eligible protected deposit liability of a participant to the depositor the Scheme Manager may —
 - (a) deduct an amount equal to the whole or part of that payment from the payment that would otherwise be made under the Scheme; or
 - (b) in pursuance of an agreement made by the Scheme Manager with the person, body or authority responsible for the other scheme, make in full the payment required to be made under the Scheme and recoup from that person, body or authority such contribution to it as may be specified in or determined under the agreement.
- (5) If paragraph (4) applies the Scheme Manager may agree with the person, body or authority responsible for the scheme, giving the guarantee, or making the dividend or distribution (as the case may be) to reimburse that person, body or authority to the extent of the deduction or any lesser sum.

13 Limits of compensation

- (1) The amount of compensation payable under the Scheme in respect of an eligible protected deposit ("the compensation sum") is 100% of the amount of the eligible protected deposit, subject to the following provisions of this regulation.
- (2) Compensation is to be reduced by —
 - (a) the amount of any liability of the depositor to the participant in respect of which a right of set-off existed at the time of the default but only to the extent that it has been used to decrease the level of the depositor's borrowing; and
 - (b) such other amounts as may be required in the opinion of the Scheme Manager to ensure that the payment to the depositor does not exceed the amount to which the depositor is properly entitled under the Scheme.

Nothing in this paragraph limits the operation of regulation 12(4) and (5).

- (3) The maximum amount of compensation in the case of each default in respect of each depositor is —
 - (a) £50,000 where the deposit is held —
 - (i) by one individual otherwise than as a trustee or a nominee; or
 - (ii) in the circumstances mentioned in regulation 9(4)(b) or (e); and
 - (b) in any other case, £20,000.
- (4) The Scheme Manager must determine the maximum amount which it is prudent to pay by way of compensation sums to depositors in any financial year of the scheme having regard, amongst other things, to the amount of contributions for that year levied in accordance with these Regulations and any other funds available to the Scheme.
- (5) Accordingly, if the full amount of compensation is not payable by virtue of paragraph (4), the Scheme Manager must ensure, as far as is reasonably possible, that the payments it determines to pay, taking into consideration any payment on account, are the same proportion of each eligible protected deposit up to the appropriate maximum amount under paragraph (3).
- (6) This regulation is subject to the other provisions of these Regulations (and in particular those by virtue of which no compensation is payable).

14 Method and timing of levies

- (1) If the Scheme Manager proposes to levy contributions it must do so by notice in writing to the participant stating —
 - (a) the amount of the contribution;
 - (b) the method by which it is calculated; and
 - (c) the date or dates on which payment of the contribution is to be due.
- (2) Contributions under the Scheme are debts due to the Scheme Manager, to be paid into the Fund; and the Scheme Manager is under a duty to enforce payment of such debts, if need be by action at law.

- (3) The Scheme Manager may make interim levies.
- (4) If the compensation costs in any financial year exceed the total sum available by way of levy contributions in that year, the Scheme Manager must in the succeeding year or years (as the case requires) levy contributions to meet such shortfall.
- (5) The Scheme Manager may require levy contributions on the basis of estimates made by it and must make the necessary adjustments as soon as practicable after such levy is imposed.

15 Special levy provisions

- (1) This regulation applies if—
 - (a) a participant ("the transferor") has entered into an agreement to transfer the whole of its business and assets to a participant ("the transferee") which is—
 - (i) a subsidiary of the transferor,
 - (ii) a holding company of the transferor,
 - (iii) another subsidiary of the holding company of the transferor,
or
 - (iv) otherwise in common ownership with the transferor,
under the terms of which agreement the transferee is, so far as practicable, to assume all the liabilities of the transferor in respect of deposits made with an Isle of Man office of the transferor;
 - (b) the licence held by the transferor under section 7 is subject to a condition prohibiting the acceptance by the transferor of funds from depositors other than pursuant to contractual arrangements with depositors which were in existence prior to the imposition of the condition; and
 - (c) the Isle of Man Financial Services Authority has —
 - (i) provided the Scheme Manager with details of the agreement referred to in paragraph (a); and
 - (ii) has confirmed by notice in writing to the transferor that the nature and terms of that agreement are such that the provisions of this regulation should apply.
- (2) Paragraph (3) applies if —
 - (a) the Scheme Manager has determined that a participant should be regarded as in default;
 - (b) that determination is made on a date when the circumstances set out in paragraph (1) apply; and

- (c) the agreement referred to in that paragraph remains in force or has been completed.
- (3) If this paragraph applies, the amount of contributions which may be levied in any one financial year of the Scheme in respect of the default of that participant (despite the provisions of regulation 6(5)) is—
 - (a) nil in the case of the transferor; and
 - (b) a sum from the transferee calculated as if for "the participant's sterling and foreign currency deposits" in regulation 6(5)(b) there were substituted "the aggregate sterling and foreign currency deposits of the transferor and the transferee".
- (4) But if the transferee fails, in any financial year of the Scheme, to pay contributions levied from it pursuant to regulation 6, as modified by this regulation, the provisions of paragraph (3)(a) shall cease to apply in respect of that financial year and the amount of contributions which may be levied from the transferor in that financial year in respect of the default is to be calculated in accordance with paragraph (3)(b).

16 Co-operation with those administering Scheme

- (1) A participant must co-operate with the Treasury and the Scheme Manager (if different) in making available all information, books and documents, and otherwise render all such assistance, as is necessary to assist them to perform their functions under these Regulations.
- (2) The requirement imposed by paragraph (1) applies —
 - (a) in the case of a participant in relation to which an administration order has been made in England and Wales, to the administrator;
 - (b) in the case of a participant in relation to which a winding up order has been made, to the liquidator;
 - (c) in a case where the members of a participant have resolved that the participant should be wound up, to the liquidator;
 - (d) in the case of a participant where a receiver has been appointed (whether or not by the Court), to the receiver;
 - (e) in the case of a participant which has made any voluntary arrangements, to the supervisor of those arrangements; and
 - (f) in any other case where an event occurs which appears to the Scheme Manager to correspond as nearly as maybe to any of the events referred to in sub-paragraphs (a) to (e), to the person corresponding to the administrator, liquidator, receiver or supervisor, as the case may be.

17 Rights of Scheme Manager against defaulting participant

- (1) If a participant is in default, this regulation has effect in relation to depositors who apply for compensation under the Scheme.
- (2) Despite any other provision of these Regulations, the Scheme Manager must not pay or determine to pay a compensation sum out of the Fund in respect of a liability of a participant unless the depositor has agreed that —
 - (a) the depositor's existing rights in respect of that liability should vest in the Scheme Manager;
 - (b) the depositor will execute any document (including any declaration of trust), do any act or provide any assistance to the Scheme Manager to enable it to exercise those rights;
 - (c) the depositor will pay to the Scheme Manager any amount which is received in respect of those rights, after deduction of any amount which under paragraph (4), the Scheme Manager would have been required to pay to the depositor; and
 - (d) if relevant, any prospect of the depositor recovering in excess of the compensation sum payable under these Regulations will be in the hands of the Scheme Manager, who may compromise the claim.
- (3) If the depositor agrees as mentioned in paragraph (2), the participant's liability to the depositor is extinguished and the Scheme Manager shall have a right of recovery against the participant, being a right otherwise identical to the depositor's right.
- (4) Any amount received by the Scheme Manager by virtue of this regulation, up to a maximum amount in relation to each eligible protected deposit liability must be paid into the Fund.
- (5) The difference between any amount paid into the Fund under the preceding paragraph and any relevant estimate earlier made shall be treated as reducing or, as the case may be, increasing the compensation costs for the year in which it is so paid.

18 Distribution of sums recovered

If the Scheme Manager recovers sums from a defaulting participant which exceed the amount of compensation costs in respect of the default, it shall distribute those sums between participants, holders of eligible protected deposits and the General Revenue of the Island on such basis as appears to the Scheme Manager to be just and equitable having regard to the sources of funding from which the compensation payment was made.

19 Accounts and annual report

- (1) The first financial year of the Scheme is the period ending on 31st March following the commencement of the Scheme, and thereafter, a financial year of the Scheme begins with 1st April in each year and ends with the 31st March in the following year.

- (2) The Treasury must, in respect of each financial year of the Scheme, and within 6 months after the end of that financial year, make and publish a report to Tynwald on the discharge of its functions in respect of the Scheme and on the operation of the Scheme generally.
- (3) The report must include a balance sheet and income and expenditure account for the Scheme.
- (4) The Scheme Manager must cause records to be kept sufficient to show and explain the transactions of the Scheme, such as to –
 - (a) disclose with reasonable accuracy, at any time, the financial position of the Scheme at that time; and
 - (b) enable the Treasury to make the reports required by this regulation.
- (5) Records required to be kept by this regulation shall be kept for a period of 10 years from the end of the financial year of the Scheme to which they relate.
- (6) In the application of these Regulations to the financial year ending on 31st March 2011, this regulation shall be treated as if it had been in operation for the whole of that year.

20 Applications to the Court

- (1) The Scheme Manager may seek the directions of the High Court on any question relating to the operation of the Scheme or the Fund.
- (2) On an application for directions under paragraph (1) the High Court may direct notice of the application to be given to such person or persons as appear appropriate.

21 Revocations and transitional savings

- (1) The following are revoked—
 - (a) the Compensation of Depositors Regulations 2008³;
 - (b) the Compensation of Depositors (Amendment) Regulations 2008⁴;
 - (c) the Compensation of Depositors (Amendment) Regulations 2009⁵;
 - (d) the Compensation of Depositors (Amendment No. 4) Regulations 2009⁶; and
 - (e) the Compensation of Depositors (Amendment) Regulations 2010⁷.
- (2) Despite paragraph (1)—
 - (a) [revoked]
 - (b) the Compensation of Depositors Regulations 2008 as in operation immediately before the coming into operation of these Regulations continue to apply for the purposes of the fund established following the default of

³ SD 826/08

⁴ SD 844/08

⁵ SD 232/09

⁶ SD 645/09

⁷ SD 192/10

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Kaupthing Singer and Friedlander (Isle of Man) Limited in respect of which the Financial Supervision Commission made a determination on 27 May 2009.

- (3) For the sake of clarity, by virtue of paragraph (2) the Isle of Man Financial Services Authority, in its capacity as the scheme manager of the scheme established under the Regulations referred to in that paragraph, must continue to manage that scheme, and provide reports to Tynwald on its continuing operation, as if these Regulations and the Depositors' Compensation Schemes (Miscellaneous Provisions) Regulations 2014 had not been made.

Made October 2010

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Minister for the Treasury

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Regulation 7(1)

SCHEDULE

PERSONS EXEMPTED FROM LIABILITY TO MAKE CONTRIBUTIONS TO THE FUND

~~Merrill Lynch Bank and Trust Company (Cayman) Limited~~ (N.B. This bank surrendered its licence on 16 February 2018 but the Regulations have not yet been amended to remove the bank from the Schedule)

Mr Michael Simpson and Mr Peter Spratt as joint liquidators and joint deemed official receivers of Kaupthing Singer & Friedlander (Isle of Man) Limited (in liquidation)

The Standard Bank of South Africa Limited

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations describe a scheme to provide some compensation to depositors of certain deposit taking businesses licensed in the Isle of Man (with exceptions) in the event of the default of any such deposit taker.

With effect from 1 August 2016 the Regulations only apply to Class 1(1) deposit takers.