

Comments on P86/2009/Amd(2) (“the amendment”)

The proposed Depositor Compensation Scheme targets protection to individual depositors, who may face particular hardship in the event of a bank failure. The Minister does not support the proposed amendment as it is not costed and including SMEs could have a negative effect on the protection of Jersey residents.

The issue of whether to extend protection to small businesses, or ‘SMEs’, was considered during the development of the scheme proposed by the Economic Development Minister. Whilst the Minister was not (and is not) opposed in principle to the possibility of including small companies, the decision was taken not to do so at this stage for two principal reasons.

Firstly, in their analysis, Oxera expressly noted that no data were available to quantify the size of the potential liabilities relating to inclusion of small companies. Discussions with the Institute of Directors and the Jersey Chamber of Commerce have since confirmed this to be the case. When contacted by the Department, it was readily accepted that the inclusion of SMEs should be properly analysed and costed before consideration is given to including them in the scheme.

Secondly, in the timescale available, with no way to quickly ascertain the cost of including SMEs, the Minister concentrated on targeting protection at the most needy members of society, namely natural persons in order to be able to put forward a scheme as quickly as possible. In line with the Guernsey scheme this covered individual depositors only.

However, the Minister has consistently said that the proposed DCS will be subject to the annual review. The Minister will undertake to do further work to cost the inclusion of small businesses in the DCS and feed the findings into the annual review. This approach is supported by the Institute of Directors and the Chamber of Commerce.

It is also important to note that the proposed amendment would grant much greater protection to SMEs than they are afforded in both Guernsey, where small businesses are not protected, and in the Isle of Man, where compensation payable to SMEs is limited to £20,000, and even this is under review on grounds of affordability. The £50,000 protection for SMEs being proposed in this amendment therefore goes considerably beyond that offered in comparable jurisdictions.

In conclusion, the Scrutiny Panel’s amendment to include SMEs could have a significant, but currently unquantifiable, effect on the amount of compensation available to individual depositors and should not be considered until it has been properly costed. The Minister cannot therefore support the amendment at this time. During the development of the proposed DCS, it was considered that it would have been irresponsible to propose coverage of any class of depositor in the DCS without having a proper appreciation of the cost consequences of doing so.