



Isle of Man Depositors' Compensation Scheme ("DCS")

Glossary of Terms

"Default" is defined in Regulation 8 as follows:

(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 regulated activity (within the meaning of the Regulated Activities Order 2009) under its licence under section 7;

(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 1931;

(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.

“Eligible protected deposit” is defined in Regulation 9 as follows:

(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 —

- (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 up of a winding-up order against the participant.	Presentation for 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).	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.