

L.N. 369 of 2003

**BANKING ACT
(CAP. 371)**

Depositor Compensation Scheme Regulations, 2003

IN exercise of the powers conferred by article 3 and article 28A of the Banking Act, the Minister of Finance and Economic Affairs, acting on the advice of the Malta Financial Services Authority, as the competent authority appointed for the purposes of that Act, has made the following regulations:-

1. (1) The title of these regulations is the Depositor Compensation Scheme Regulations, 2003. Cap. 371.
Citation and date of
commencement.

(2) These regulations shall come into force on the 21st November, 2003.

2. In these regulations, unless the context otherwise requires - Interpretation.

“Act” means the Banking Act;

Cap. 371.

“branch” shall have the meaning assigned to the word in article 2 of the Act and, for the purposes of these regulations, includes a place of business which forms a legally dependent part of a credit institution and from which some or all of the activities for which the credit institution has been authorised are conducted. All the places of business set up in any one country by a credit institution whose head office is in Malta or in another country shall be regarded as a single branch;

“business of banking” shall have the meaning assigned to the words in article 2 of the Act;

“Central Bank” means the Central Bank of Malta as defined by the Central Bank of Malta Act; Cap. 204

“competent authority” means the competent authority under the Act;

“credit institution” shall have the meaning assigned to the words in article 2 of the Act;

“deposit” shall have the meaning assigned to the word in article 2 of the Act;

“depositor” means any individual who otherwise than in the course of or for the purposes of a business, trade or profession entrusts a deposit to a credit institution, to the exclusion of the persons and entities listed in the First Schedule to these regulations;

“eligible deposit” shall have the meaning assigned to it by regulation 18 of these regulations;

Cap. 330.

“Financial Services Tribunal” means the tribunal established in terms of the Malta Financial Services Authority Act;

“Management Committee” means the Compensation Schemes Management Committee established under regulation 3 and 5 of the Investor Compensation Scheme Regulations 2003;

“participant” means a credit institution participating in the Scheme in terms of regulation 11 of these regulations;

“the Scheme” means the Depositor Compensation Scheme established under regulation 3 of these regulations;

and the words and expressions which are also used in the Act shall have the same meaning as in the Act.

Establishment of the
Depositor
Compensation
Scheme.

3. (1) There shall be established a Depositor Compensation Scheme.

(2) The Scheme shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of the Act and of these regulations, of entering into contracts of borrowing or otherwise incurring indebtedness for the purposes of its functions, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing or being sued and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions.

(3) The Scheme shall be managed and administered by and be under the general control of the Management Committee.

(4) The legal and judicial representation of the Scheme shall vest in the chairperson of the Management Committee:

Provided that, and without prejudice to the foregoing, the Management Committee may vest any one or more of its members or of the officers or agents of the Scheme with legal or judicial representation.

4. (1) Without prejudice to any other power or function conferred on it by these regulations or by any other law, it shall be the function of the Scheme:

Functions of the Scheme.

(a) to maintain a fund or funds out of which payments shall be made to depositors and to meet such other payments or expenses as may be paid out of the fund or funds in accordance with these regulations;

(b) to establish and maintain, after consultations with the competent authority, arrangements for the making of payments to depositors in accordance with these regulations;

(c) to process claims for compensation by depositors as expeditiously as possible and to ensure that compensation is paid out without undue delay; and

(d) to advise the competent authority on matters relating to compensation of depositors.

(2) The objective of the Scheme is to provide a means of protection for private depositors within the framework of these regulations. All the members of the Management Committee shall work in the best interest of the Scheme and shall pursue and promote its objective.

5. The Management Committee shall be composed and regulated by the provisions of regulations 3 and 5 of the Investor Compensation Scheme Regulations, 2003.

Composition of the Management Committee.
L.N. 368 of 2003.

6. (1) The Management Committee shall have the power to enter into such reasonable administrative and other expenses as may be necessary to enable it to fulfil its functions under these regulations.

Powers and duties of the Management Committee.

(2) The Management Committee may place contributions made by participants in terms of regulation 12 of these regulations and any other funds managed and administered by it on deposit or may invest such contributions, having regard to the need for prudence.

(3) The Management Committee may take out insurance policies, borrow or otherwise incur indebtedness on behalf of the Scheme for the purposes of the Scheme's functions, in any way and under any terms it may consider appropriate, provided that borrowings do not exceed 30 per cent of the net asset value of the Scheme.

(4) The Management Committee shall cause proper books of account to be kept so that the financial position of the Scheme can be ascertained with reasonable accuracy at any time.

(5) In exercising its powers and duties, the Management Committee shall be bound to safeguard and take into account the general interests of depositors entitled to claim under these regulations.

Investment
management and
administrative
support agreements.

7. Without prejudice to sub-regulation (1) of regulation 6 the Management Committee shall enter into such investment management and administrative support agreements as may be approved by the competent authority.

Publication of
Financial
Statements.

8. (1) The Management Committee shall prepare annual forecast statements of the expected costs and revenues of the Scheme, and shall make available such forecast statements to all participants upon request.

(2) The Management Committee shall submit to the competent authority an annual report on the discharge of its functions and on the operation of the Scheme within three months from the financial year end of the Scheme. Such annual report shall include, inter alia -

(a) a statement showing the payments in and payments out of the Scheme during its immediate previous financial year; and

(b) annual audited financial statements prepared in accordance with International Accounting Standards.

(3) The annual report shall be made available on the website of the competent authority.

(4) The books of accounts shall be kept at such place as the Management Committee thinks fit.

Meetings of the
Committee.

L.N. 368 of 2003

9. The meetings of the Management Committee shall be convened and held in accordance with regulation 9 of the Investor Compensation Scheme Regulations, 2003.

Source and
Application of
funds.

10. (1) In terms of regulation 4 of these regulations, the Scheme shall establish and maintain a fund or a number of funds out of which payments shall be made in accordance with these regulations.

(2) The sources of funding shall include:

(a) contributions levied from participants of the Scheme by the Management Committee;

(b) money paid as administrative fees by all participants, as may be prescribed;

(c) money received as income from the investment of the assets of the fund;

(d) money borrowed by the Management Committee for the purposes of the Scheme;

(e) money received by the Management Committee on any insurance policy it takes out; and

(f) any other money required to be paid in to the fund or funds, received or recovered by the Management Committee for the purposes of the Scheme.

(3) There shall be paid out of the fund or funds:

(a) money determined by the Management Committee as compensation for depositors;

(b) money required for the repayment of (or interest on or charges in connection with) any money borrowed or for the payment of premia on any insurance policies taken out, for the purposes of the Scheme;

(c) the costs incurred in administering and managing the Scheme; and

(d) any other money paid out by the Management Committee for the purposes of the Scheme.

(4) The Management Committee shall hold, manage and apply the fund or funds in accordance with these regulations.

11. (1) Every credit institution which is licensed in Malta under the Act to accept deposits from depositors in Maltese lira shall participate in and contribute to the Scheme, including a branch of a credit institution operating in another country. ^{Participants.}

(2) In the case of a participant whose head office is situated in a country outside Malta, as well as branches of a credit institution having their head office in Malta but operating outside Malta, and where

there is supplementary cover by a corresponding scheme in that other country, the Management Committee shall enter into a bilateral agreement with the authority responsible for the management and administration of the scheme in that other country stipulating, inter alia, the rules and procedures to be followed for the payment of compensation to depositors.

(3) Participation in the Scheme does not exclude the possibility that particular credit institutions may have to participate also in another compensation or similar schemes set up under a different law and governed by another competent authority or other body, in Malta or abroad.

(4) When a credit institution becomes a participant in the Scheme after the coming into force of these regulations, the Management Committee shall determine all the relative obligations and conditions of the new participant as set out in the Third Schedule to these regulations.

Contributions to the Scheme.

12. (1) Participants shall pay such contributions to the Scheme as prescribed in the Second Schedule to these regulations.

(2) Participants may be requested to pay to the Scheme such reasonable administrative fees as may from time to time be prescribed by the Management Committee.

Determination.

13. (1) Where:

(a) it appears to the competent authority that a participant is unable, for the time being, for reasons which are directly related to its financial circumstances to meet its obligations arising from claims by its depositors and to have no early or foreseeable prospect of being able to do so, or has otherwise suspended payment; or

(b) in respect of a credit institution which has its head office in Malta an order has been made by the Courts of Malta for its winding-up or liquidation under the laws of Malta;

whichever is the earlier, the competent authority shall make a determination to that effect within 21 days of the occurrence of such circumstances.

(2) The competent authority may, by way of banking directives, establish those circumstances or criteria which it may consider

in arriving at a decision as to whether it will make a determination in terms of sub-regulation (1) of this regulation.

(3) As soon as practicable after a determination is made, the competent authority shall inform the Management Committee in writing of such determination. The Management Committee may take additional measures it deems necessary or appropriate within its powers under these regulations.

(4) The competent authority shall, as soon as possible, inform any other compensation scheme relating to financial services activities, as may be established under any other law and regulated by other competent authority or other body, which it believes may be effected by such determination.

(5) In making a determination in accordance with sub-regulation (1) of this regulation, the competent authority shall have regard to any report of officers or agents authorised by it on the state of affairs of the credit institution, and any other information in its possession.

14. (1) On being informed by the competent authority that a determination has been made under sub-regulation (1) of regulation 13, the Management Committee shall publish a notice in at least two local newspapers, informing depositors of the credit institution concerned of such determination and of the manner in which claims supported by documentary evidence are to be submitted.

Application for
Compensation.

(2) The right of a depositor for compensation shall not be forfeited if the depositor is able to prove that he was unable to assert his right to compensation within any prescribed time-limits as may be provided by the Management Committee.

(3) The Management Committee may, following an application for compensation being made to it by a depositor, accept or refuse to provide compensation in accordance with these regulations.

(4) The Management Committee shall proceed to pay compensation for verified claims within three months of the date of the determination given in terms of sub-regulation (1) of regulation 13:

Provided that the Management Committee may, in exceptional circumstances, apply to the competent authority for an extension of this period by a further period of up to three months, and up to two further periods of up to three months each thereafter.

Verification of claims.

15. (1) The Management Committee shall make its own administrative arrangements for verifying claims. These arrangements shall include:

- (a) providing an application form for claimants both in English and in Maltese;
- (b) providing for the exercise of the Management Committee's right of subrogation under regulation 22 of these regulations; and
- (c) requiring claimants to give:
 - (i) their identity and address;
 - (ii) the capacity in which they claim;
 - (iii) evidence of the eligible deposits as defined in regulation 18 of these regulations; and
 - (iv) any other information as may be required by the Management Committee.

(2) The Management Committee may refuse to make a payment for compensation until the claimant informs the Management Committee as to the capacity in which he is the beneficial owner of the deposit and provides satisfactory documentary evidence and information to allow the Management Committee to determine the amount of compensation payable.

Cap. 373

(3) The Management Committee may decide to delay payment to a claimant until determination of any criminal charge brought against the claimant, depositor, or any person entitled to or interested in respect of an eligible deposit under the provisions of the Prevention of Money Laundering Act or a corresponding law of a country outside Malta.

(4) Where in the opinion of the Management Committee circumstances so warrant, the Management Committee may effect part payments to claimants eligible for compensation under these regulations.

When funds appear to be inadequate.

16. Whenever it appears to the Management Committee that the funds for the time being held by the Scheme are inadequate for the Management Committee to exercise its functions, the Management Committee may require a Special Contribution to be made to the Scheme by participants in accordance with the Second Schedule to these regulations. Such Special Contribution shall be provided to the Scheme within 30 calendar days of their being requested.

17. The total amount of compensation that may be paid out to a depositor shall be the lesser of ninety per cent (90%) in respect of that depositor's eligible deposits, or up to the Maltese liri equivalent of 20,000 euro converted on the basis of the official closing middle rate issued by the Central Bank of Malta prevailing on the date of settlement of the claim.

Limit of compensation.

Provided that where the funds of the Scheme are insufficient to satisfy the claims in full, payments to claimants shall be made pro rata.

18. (1) For the purposes of these regulations, "eligible deposits", in relation to a depositor with a credit institution, means the total aggregate liability of the credit institution to such depositor, including, as the case may be, any interest or premium accrued thereon in an account or accounts denominated in Maltese lira held in Malta or in a branch of a licensed credit institution other than in Malta.

Eligible Deposits.

(2) For the avoidance of doubt, "eligible deposits" shall not include the following:

(a) an "interbank deposit", that is a deposit with a credit institution by other credit institutions on its own behalf and on its own account;

(b) part of the participant's own funds within the meaning of any banking directive issued by the competent authority to regulate own funds; and

(c) a deposit made by a person or persons listed in the First Schedule to these regulations.

19. (1) In calculating the amount of eligible deposit, the Management Committee shall take account of any legal and contractual conditions attached to the respective deposits and shall deduct from the total liability of the credit institution:

Compensation paid to be deducted from compensation payable.

(a) any payments made to the depositor from a depositor compensation scheme elsewhere in respect of such liability;

(b) any payments made to the depositor under a policy of professional indemnity insurance held by the credit institution in respect of such liability;

(c) the amount of any liability of the depositor to that credit institution in respect of which a right of set-off against the said deposit existed immediately before the notice of determination

issued in terms of regulation 13 of these regulations or in respect of which such a right would have existed had the said deposit been repayable on demand and such liability fallen due immediately before the issue of such a notice of determination; and

(d) any payments made under any other law, whether in Malta or abroad, in respect of such liability.

(2) Without prejudice to the aforesaid:

(a) any right of set-off shall only be possible where claims are properly documented, can be settled easily, are not subject to dispute and were established well before the notice of determination issued in terms of regulation 13 of these regulations.

(b) any compensation in respect of an eligible deposit shall only be payable as and when the deposit becomes due.

Claimants.

20. (1) Only persons being individuals falling within the definition of “depositor” in regulation 2 of these regulations may make a claim against the Scheme in terms of these regulations. A depositor may only submit one claim in respect of all his deposits taken in aggregate with the credit institution concerned.

(2) The following individuals are excluded from claiming under the Scheme:

(a) directors and managers of the relevant credit institution and members of the credit institution with personal liability, persons holding five percent or more of the capital of such credit institution, the auditors of the credit institution and persons of the same description with respect to a company forming part of the same group of companies as the credit institution;

(b) close relatives, that is ascendants, descendants or the spouse of the persons referred to in paragraph (a) of this sub-regulation;

(c) depositors who, in the view of the Management Committee, have any responsibility for or have taken advantage of certain facts relating to a credit institution which gave rise to a credit institution’s financial difficulties or contributed to the deterioration of its financial situation;

(d) depositors in respect of transactions in connection with which a criminal conviction has been obtained for money

laundering in terms of the Prevention of Money Laundering Act; ^{Cap. 373}
and

(e) nominees or other third parties acting on behalf or in the interest of the persons referred to in paragraphs (a) to (d) of this regulation.

(3) The categories listed in the First Schedule to these regulations are also excluded from claiming under the Scheme.

(4) The Scheme shall provide for the payment of compensation in respect of claims arising out of a participant's inability to repay money owed to or belonging to depositors and held on their behalf in connection with banking business.

(5) A depositor may not claim against more than one scheme in respect of a single claim. Where a claim has been made under two or more compensation schemes, the Management Committee shall conclusively determine under which scheme the claimant is eligible for compensation.

(6) Claims shall be made in such form, and shall be accompanied by such documentation or information, as the Management Committee may determine and make public from time to time.

21. Where the Management Committee is of the opinion that a ^{Claims.} depositor is not eligible for compensation in whole or in part in terms of these regulations, the Management Committee shall give notice in writing to such depositor of that opinion and the reasons therefor.

22. (1) Where the Scheme has made a payment to a claimant, ^{Subrogation.} the Scheme shall be subrogated to the rights and remedies of that claimant against the credit institution.

(2) Prior to payment, depositors shall confirm in writing to the Management Committee that:

(a) they have not received any payment from any other scheme or from the credit institution concerned in respect of the same loss;

(b) they will provide any assistance the Management Committee may require to enable the Management Committee to exercise its rights and remedies against the credit institution; and

(c) their rights and remedies against the credit institution in respect of the claims paid shall be subrogated in favour of the Management Committee.

Joint ownership.

23. (1) Where two or more persons are jointly entitled to an eligible deposit, each of these persons shall be treated as having a separate deposit of an amount produced by dividing the amount of the deposit to which such persons are jointly entitled by the number of persons so entitled, unless there exists specific evidence or special contractual provisions determining the particular entitlements of such persons in which case such evidence shall be taken into account in determining their entitlements.

(2) Where a person is acting as trustee or nominee for one or more persons under a deed of trust or other similar agreement, the eligible deposit comprising the claim shall be deemed to belong to the beneficial owners equally, unless there exists specific evidence or special contractual provisions determining the beneficial interests of such persons in which case such evidence shall be taken into account in determining their entitlements, and provided in any event that ownership is proved to the entire satisfaction of the Management Committee.

Consumer
Information.

24. The Management Committee shall ensure that the general public is adequately informed about the operation of the Scheme arrangements.

Advertisements.

25. (1) Credit institutions shall make available to current and prospective depositors adequate and clear information concerning the applicability of the Scheme together with such other particulars as may from time to time be specified by the competent authority in a manner and form specified by the competent authority:

Provided that a credit institution shall not advertise or cause to be advertised the fact that deposits placed with a credit institution are protected by or through the Scheme except with the prior written consent of the competent authority.

(2) The competent authority may from time to time, specify the information that credit institutions are to provide to depositors regarding the Scheme and its operations, as well as the manner and form in which such information should be provided.

Power of the
Management
Committee to obtain
information.

26. (1) The Management Committee may request participants, either directly or through the competent authority, to provide such information which the Management Committee may consider relevant for the proper administration of the Scheme, within a period of time as may be established by the Management Committee. The request may be addressed to the participant or to any of its directors or officials who are in possession of such information.

(2) Without prejudice to any other provision of these regulations, a participant or any director or official thereof, who fails to comply with the Management Committee's request for information within the period of time established by the Management Committee in terms of sub-regulation (1) of this regulation, or who knowingly or recklessly furnishes information, or makes a statement which is inaccurate, false or misleading in any material respect, shall be liable to an administrative penalty not exceeding Lm1,000 as may be imposed by the competent authority by means of a notice in writing and without recourse to a court hearing.

(3) Where an administrative penalty has been imposed by the competent authority in terms of sub-regulation (2) of this regulation, an appeal shall lie to the Financial Services Tribunal in accordance with articles 10 and 35A of the Act.

27. (1) Members of the Management Committee and persons appointed under sub-regulation (1) of regulation 6 shall be subject to the provisions of the Professional Secrecy Act and shall keep confidential any information obtained by them in the course of performing their duties under these regulations, and shall not reveal any information to any person, credit institution, association or entity except as may be allowed by these regulations or any other law or by Court order.

Confidentiality.

Cap. 377

(2) The duty of confidentiality shall not be contravened in the case of:

(a) exchange of information between the Management Committee and competent authorities in other countries, or the competent authorities for the management and administration of corresponding schemes in other countries, provided that the relevant information is necessary for the discharge of their duties under these regulations; and

(b) any use or disclosure as may be required to enable the Management Committee and its officers or agents to perform their duties and carry out their functions under these regulations.

28. (1) Where a credit institution fails to comply with its obligations under these regulations, the Management Committee shall notify and consult with the competent authority and shall agree on the appropriate measures to be taken by the competent authority, including the imposition of penalties, to ensure that the credit institution complies with such obligations.

Failure to comply with obligations.

(2) If these measures fail to secure compliance on the part of the credit institution, the Management Committee shall report the matter to the competent authority for any further measures to be taken at law, including the possible restriction or withdrawal of the credit institution's licence.

(3) After the restriction or withdrawal of a licence, cover shall continue to be provided in respect of eligible deposits effected up to the date of restriction or withdrawal.

Procedures to investigate complaints.

29. The Management Committee shall establish and maintain adequate internal procedures to investigate complaints against it by credit institutions and by depositors.

Power to issue directives.

30. (1) The competent authority may issue banking directives to credit institutions for the purposes of these regulations.

(2) Such banking directives may contain such incidental, supplementary and consequential provisions as appear to the competent authority to be expedient for the purpose of these regulations.

Exemption from liability for damages.

31. The Management Committee and officers or agents of the Scheme shall not be liable in damages for anything done or omitted in the discharge of functions under these regulations unless it is shown that the act or omission was in bad faith.

Financial year end of the Scheme.

32. The financial year end of the Scheme shall be an accounting period of twelve months ending on the thirty-first day of December of each year.

Audit.

33. The accounts of the Scheme shall be audited in accordance with International Standards on Auditing by auditors appointed by the Management Committee from among persons who are qualified to be appointed as auditors of a company under the law for the time being in force in Malta.

Cooperation with other authorities.

34. The competent authority and the Management Committee shall consult the relevant competent authorities and the persons responsible for compensation schemes in other countries outside Malta and seek to reach agreement with those authorities and persons about:-

- (a) the procedures to be followed if a participant defaults;
- (b) the amounts of compensation payable, after deductions if any, under each scheme; and

(c) any other aspect which is deemed appropriate for the proper management and administration of the schemes.

35. (1) The Management Committee established under regulation 3 of the Investor Compensation Scheme Regulations, 2003 and the Management Committee referred to in these regulations are one and the same. The Management Committee referred to in these regulations shall continue in the personality of the Management Committee established immediately before the coming into force of these regulations and accordingly shall succeed to all its rights and obligations.

Transitory
provisions

L.N. 368 of 2003

(2) All appointments, decisions, contributions, claims, payments or other acts made or taken under the Deposit Guarantee Scheme Regulations, 2003 before the coming into force of these regulations shall continue in force and shall be deemed to have been made or taken under these regulations, and any reference in any law to the Management Committee shall be deemed to be a reference to the Management Committee established under regulation 3 of the Investor Compensation Scheme Regulations, 2003.

L.N. 7 of 2003

36. The Deposit Guarantee Scheme Regulations, 2003 published on 3rd January, 2003, are hereby repealed.

Repeals.
L.N. 7 of 2003

First Schedule

Exclusions (Regulations 18, 20)

For the avoidance of doubt, the following are excluded from claiming under the Scheme and shall not be deemed to be depositors for the purpose of these regulations:

- (1) Sole traders, companies and other commercial partnerships;
- (2) Professional and institutional depositors, including:
 - (a) Persons holding an investment services licence under article 6 of the Investment Services Act;
 - (b) Credit institutions carrying on the business of banking under the Act;
 - (c) Financial Institutions as defined in article 2 of the Financial Institutions Act;
 - (d) Companies authorised to carry on the business of insurance under the Insurance Business Act;
 - (e) Collective investment schemes as defined in article 2 of the Investment Services Act;
 - (f) Retirement funds as defined in the Special Funds (Regulation) Act; and
 - (g) Other categories of local and/or foreign professional and institutional investors, whether resident or non-resident in Malta, as may be determined by the competent authority from time to time;
- (3) National and international institutions, governments and administrative authorities;
- (4) Local and municipal councils or authorities; and
- (5) Debt securities issued by the same institution and liabilities arising out of own acceptances and promissory notes.

Second Schedule

Contributions in terms of regulation 12 of these regulations

All credit institutions participating in the Scheme shall make contributions to the Scheme as follows:

- (a) Initial Contribution;
- (b) Supplementary Contributions;
- (c) Special Contributions.

The minimum amount held by the Scheme and which should be available for compensation shall be Lm1 million, established over a period of time not exceeding five years from the coming into force of the Deposit Guarantee Scheme Regulations, 2003.

1. Initial Contribution

(a) An Initial Contribution shall be paid by participants within 30 calendar days from the coming into force of these regulations.

(b) The minimum amount of the Initial Contribution shall be of Lm10,000 per participant.

(c) The Management Committee may, in consultation with the competent authority, postpone part or all of the payment of the Initial Contribution and determine a time schedule for the payment thereof.

(d) This paragraph shall not apply to participants who have paid the Initial Contribution prior to the coming into force of these regulations.

2. Supplementary Contributions

(a) The level of Supplementary Contributions for each participant shall be calculated by applying the percentage determined by the Management Committee on the eligible deposits held by the participant as at its most recent financial year end.

(b) The minimum amount of Lm1 million shall be contributed proportionately in accordance with the participants' share of total eligible deposits over a period not exceeding five years, commencing from the date on which the Deposit Guarantee Scheme Regulations, 2003 came into force.

(c) The formula applicable for participants for the yearly contribution for the first five years to attain the minimum amount of the Scheme shall be as shown

hereunder. For the sake of clarification, Year 1 shall be deemed to be the year in which the Deposit Guarantee Scheme Regulations, 2003 came into force.

Year	Formula
1	0.1% of Eligible Deposits (as at the most recent financial year end)
	5
2	(0.1% of Eligible Deposits as at financial year end of Year 1) less (Year 1 contribution)
	4
3	(0.1% of Eligible Deposits as at financial year end of Year 2) less (Year 1 + Year 2 contributions)
	3
4	(0.1% of Eligible Deposits as at financial year end of Year 3) less (Year 1 + Year 2 + Year 3 contributions)
	2

(d) As from Year 5 onwards, participants shall need to ensure that their aggregate proportional contribution amounts to 0.1% of their respective eligible deposits as at the previous financial year end.

(e) If the amount contributed in any subsequent year (i.e. from Year 5 onwards) is less than 0.1% minimum, the participant shall be required to make an additional Supplementary Contribution.

(f) A participant shall not be eligible for a refund if the 0.1% of eligible deposits for a particular year represent an amount which is less than the aggregate amount contributed.

(g) Payment of Supplementary Contributions shall be made within 21 calendar days from service to each participant of a request in writing by the Management Committee.

Provided that the Management Committee may authorize the contribution to be paid in two equal instalments; if such authorization is granted, the first instalment shall be paid on the day indicated in this subparagraph and the second instalment shall be paid by not later than six months thereafter.

3. Special Contributions

(a) The Management Committee may, at any time during the financial year of the Scheme, levy Special Contributions from participants in order to meet commitments of the Scheme.

(b) The Management Committee may, at the end of its financial year during which Special Contributions have been levied, refund part or all of such Special Contributions not utilised, or not expected to be utilised for the following 12 months, to participants pro rata and according to the amounts of Special Contributions made. No interest shall be payable on Special Contributions refunded to participants.

(c) Payment of Special Contributions shall be within 30 calendar days from service to each participant of a written notice specifying the amount due.

4. Maximum limit for contributions

(a) When the amount held by the Scheme (and which is available for compensation) is about to reach, or has reached, Lm3 million, the Management Committee shall, with the approval of the competent authority, consider whether current and future circumstances merit a revision of the Supplementary Contributions made by participants and whether participants are to cease further cash payments of Supplementary Contributions to the Scheme.

(b) Participants shall not be required to make any Supplementary or Special Contributions, if the total of its contributions to date (Initial, Supplementary and Special), after deducting any refund of Special Contributions, exceeds 0.3% of the total eligible deposit liabilities.

(c) After Year 5, the difference between the “capped” level of 0.3% and the amount paid in Supplementary Contributions (as at the date from which participants have ceased payment of Supplementary Contributions on a decision of the Management Committee), shall be considered by the Management Committee to be funds “on call” and shall either be held as a capital reserve by the participant or as a contingent liability.

(d) In this respect and upon further consultation with participants, the competent authority shall issue banking directives to participants determining how such funds “on call” should be treated.

(e) In any case, participants shall ensure that such funds are made available to the Scheme within 30 calendar days from the time when a call is made on such funds.

5. Other conditions

A credit institution which has ceased to be a participant of the Scheme shall not be entitled to a refund of any contributions made from the date it became a participant of the Scheme except where otherwise stated in this schedule.

Third Schedule

New participants (regulation 11(4))

(1) When a credit institution becomes a participant in the Scheme after the coming into force of these regulations, the Management Committee shall levy as soon as practicable an Initial Contribution of an amount to be determined in terms of this Schedule but which shall be no less than the amount established in the Second Schedule to these regulations..

(2) Where a credit institution which becomes a participant has a deposit base, the amount of the Initial Contribution shall be calculated on the total Eligible Deposit liabilities at the time it becomes a participant with such a percentage as the Management Committee considers appropriate in order for the participant to reach the levels of compensation with the other participants, taking into account any Initial and Supplementary Contributions up to the date when the credit institution becomes a participant.

(3) The Management Committee shall determine a time schedule for the payment of the Initial Contribution taking into consideration the particular circumstances of the new participant.