

Industry Briefing

on

Proposed Amendments to the Protection of Depositors Act, 1999 and the Protection of Depositors Byelaws, 1999

Mrs. Rochelle Deleveaux-McKinney

Legal Counsel

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Protection of Depositors (Amendment) Bill, 2019: Objects of the Corporation

- **Clause 4** proposes the following as objects of the Corporation:
 - To provide insurance against the loss of part or all deposits;
 - To promote and otherwise contribute to the stability of the financial system in The Bahamas; and

It is also proposed that these objectives be pursued for the benefit of depositors in a manner that will minimize loss to the Corporation.



Protection of Depositors (Amendment) Bill, 2019:

Clauses 2 and 5 - Membership in the Fund

- Propose that membership of the Deposit insurance Fund be mandatory for co-operative credit unions registered under the Bahamas Cooperative Credit Unions Act, 2015.
- Seek to expand the definition of “deposit” to include a co-operative credit union’s stabilization fund, liquidity deposits or capital as defined in subsection 2(1) of The Bahamas Co-operative Credit Unions Act, 2015; and such other deposits as may be prescribed by the Minister on the recommendation of the Bank.
- Propose that the Corporation issue certificates of insurance to member institutions within 4 weeks of an institution becoming a member of the Fund.



Protection of Depositors (Amendment) Bill, 2019: Clauses 3- Composition of the Fund

- It is proposed that the Fund comprise:
 - initial contributions, special contributions and premiums paid by member institutions;
 - sums payable by the Central Bank under the principal Act;
 - sums voted by Parliament for the purposes of the principal Act;
 - any moneys borrowed by the Corporation for the purposes of the principal Act;
 - amounts realized from investment proceeds;
 - moneys that may accrue from fees or the operations of the Fund; and
 - dividends from the Liquidator consisting of income earned in the orderly liquidation process or from the sale of assets of a failed member institution.



Protection of Depositors (Amendment) Bill, 2019:

Clause 6 - Deposit Insurance Premiums

- Proposes that the Corporation's assessment of the annual premiums of a member institution be based on the amount of insured deposits, the Corporation's assessment of the risk profile of the member and returns submitted by the member.
- Proposes an increase in the initial premium payable - from one twentieth of one percent to one tenth of one percent of the average insurable deposits.
- Proposes that the Corporation be required to review the size of the Deposit Insurance Fund biennially and make recommendations to the Board regarding the amount of premiums payable and the target ratios for the Fund.



Protection of Depositors (Amendment) Bill, 2019: Clause 7 - Payments

- Proposes that the Corporation seek to gradually reduce the time for making payments to depositors following the issue of a Notice by the Corporation that an institution is closed. Timelines for issuing depositor payments following a Notice of Closure are as follows:
 - Until 31 December 2022, twenty business days later;
 - From 1 January 2023 until 31 December 2025, ten business days later;
 - From 1 January 2026 until 31 December 2030; seven business days later.
- Proposes allowance of increase or decrease in the Corporation's capital and in deposit insurance coverage.



Protection of Depositors (Amendment) Bill, 2019: Corporate Governance

- **Clause 8** proposes that the Minister may lend money to the Corporation on such terms and conditions as he may establish.
- **Clause 9** proposes that the Schedule governs the constitution and functioning of the Board.
- **Clause 10** proposes that the Corporation be required to establish a code of conduct for its directors and officers requiring them to avoid any situation likely to give rise to a conflict of their personal interest with the interests of the Corporation.
- Directors must disclose their direct or indirect personal interests in any contracts/transactions made or proposed by the Corporation and recuse themselves from any connected deliberation or decision relative to the contract or transaction.



Protection of Depositors (Amendment) Bill, 2019:

Clause 15 - Enhanced Powers of the Corporation

- Expands the types of instruments in which the Corporation may invest to include any instrument or investment approved by the Board.
- Permits the Corporation to borrow by the issuance and sale of bonds debentures, notes or any other evidence of indebtedness.
- Authorizes the Corporation to charge fees for the administration of the Act.



Protection of Depositors (Amendment) Bill, 2019:

Clause 19 - Examination of Member institutions

Clause 19 proposes that the Inspector of Banks and Trust Companies or another person appointed by the Central Bank examine the affairs of each member institution on behalf of the Corporation to assess-

- a) the reliability of depositor records; and
- b) whether a member institution has the IT systems and data necessary to produce such records.



Protection of Depositors (Amendment) Bill, 2019: Schedule – The Board

- Roles and duties of the Corporation's Board
- Constitution of the Board
- Appointment of deputy chairperson
- Tenure of directors
- Requirements for meetings
- Remuneration



Protection of Depositors (Amendment) Byelaws, 2019

Corporation to Issue Signage and Logos

Amendment of byelaw 4

- Proposes that the Corporation issue signs and logos to all members within 3 months of the amendment coming into effect.
- Members must prominently display signs and logos in offices and branches, websites and mobile applications in a way that best brings the information to depositors' attention.
- Members must include a statement indicating whether or not a financial product or facility being offered by the institution is insured pursuant to the Act-



Protection of Depositors (Amendment) Byelaws, 2019

Corporation to Issue Signage and Logos

- on its website pages advertising or promoting the financial product;
- on printed and promotional materials relating to the financial product.
- The statement must be prominently displayed in a way that best brings the information to depositors' attention;
- Institutions must provide information about the Corporation in terms and in the format required by the Corporation.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 4A on Cancellation of Certificate of Insurance

It is proposed that the Corporation cancel a certificate of insurance if—

- In the opinion of the Central Bank, a member institution is or is about to become insolvent;
- When the member institution's licence or registration to carry on its business operations has been revoked or cancelled by the Bank, as the case may be;
- When the Bank confirms in writing that by reason of insolvency, the member institution has ceased to accept deposits; or has not begun to accept deposits within a period of two years beginning on the day on which it became a member institution; or



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 4A on Cancellation of Certificate of Insurance

- In the opinion of the Bank, a member institution has engaged or is engaging in unsafe or unsound practices in conducting its business.

The Corporation must notify the Minister where it proposes to cancel a certificate of insurance and must not take such action if it is advised by the Minister that taking the action proposed would not be in the public interest.

Before cancelling a certificate of insurance the Corporation must notify the member institution concerned in writing of its proposed action and its rationale and give the member institution an opportunity to show cause why the certificate should not be cancelled.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 4B on Appeal against Cancellation

- It is proposed that a member institution who has received a notice of intended cancellation may within three days of receipt of the notice appeal the decision in writing to the Minister. The Minister must hear the appeal within seven days of it being lodged and may dismiss the appeal or direct the Corporation to withdraw the notice of intention to cancel the certificate of insurance.
- Where a member institution's membership has been cancelled it must notify depositors of this.
- The Corporation may publish notice of cancellation of an insurance policy in such media as it thinks appropriate.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 4C - Merger or Consolidation

- It is proposed that following the merger, amalgamation or consolidation of a member institution with another member or with a non-member institution, the resulting bank or co-operative credit union shall continue as a member institution.
- Depositors of a surviving merged or amalgamated member institution who held deposits with one or more pre-existing member institutions shall continue to have those deposits insured up to the prescribed amount for a period of two years.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 4C - Merger or Consolidation

- A surviving merged or amalgamated institution shall notify its depositors of the merger or amalgamation and of the date on which the separate coverage of deposits will cease.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 8A –Information for New Depositors

- It is proposed that, as part of the account opening process, member institutions provide new customers who have eligible deposits, with brochures supplied by the Corporation in the same format in which account opening documents are provided.
- Member institutions must provide prospective customers with information on whether their deposit would be covered by deposit insurance.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 8B – Ineligible Deposits

Where a member institution issues an instrument which shows that it has received or is holding a deposit which is not covered by deposit insurance – the instrument must contain on its face, a warning, that the underlying deposit is not insured by the Corporation.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 8C – Required Capabilities of Member Institutions

- It is proposed that the Corporation provide its Data Requirements and any changes thereto to each member institution and make these available on its website.
- Member institutions must be able to identify, capture, organize and produce deposit liability data, in accordance with the Data Requirements.
- Member institutions must make available to the Corporation the standardized data, or any portion of it, within the timeframe stated by the Corporation.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 8C –Required Capabilities of Member Institutions

- It is proposed that a member institution must mark
 - insured deposits;
 - accounts (including client accounts and trust accounts) which are held on behalf of beneficiaries and which contain or may contain insured deposits,in a way that allows for the immediate identification of such deposits and store the information electronically.



Protection of Depositors (Amendment) Byelaws, 2019

New Byelaw 8C –Required Capabilities of Member Institutions

- A member institution must be able to inter alia
 - provide the Corporation with the aggregated amount of insured deposits of every depositor;
 - calculate the interest accrued or payable on each deposit as of the determination date; and
 - produce, at the determination time, the standardized data as it exists at that time.
- A member institution must take reasonable steps to ensure the accuracy of the data it holds to satisfy the requirements of the byelaws and the principal Act.



Thank You

