



BERMUDA

DEPOSIT INSURANCE RULES 2016

BR 86 / 2016

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	SCHEDULE

The Bermuda Deposit Insurance Corporation, in exercise of the power conferred by section 9 of the Deposit Insurance Act 2011, makes the following Rules:

Citation

1 These Rules may be cited as the Deposit Insurance Rules 2016.

Definitions

2 In these Rules—
“the Act” means the Deposit Insurance Act 2011;

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“premium period” means each period of three months commencing on the first day of April, July, October and January;

“transitional period” means the period of six months following the commencement date of these Rules, which period may be extended for a further period as determined by the BDIC.

Premium contributions payable by Scheme members

3 (1) The BDIC shall assess the premium payable for each premium period.

(2) For purposes of section 17 of the Act, premium contributions shall be payable for each premium period in arrears.

(3) Within seven days from receipt by the BDIC of a Scheme member’s declaration under rule 8(3), the BDIC shall, at least 15 days prior to the date on which the Scheme member is required to pay its premium contribution, give the Scheme member notice in writing of the amount of the premium contribution payable for that premium period and the date by which such premium contribution shall be paid.

(4) Premium contributions payable by a Scheme member shall—

- (a) be calculated with reference to the average insured deposit base of the Scheme member over the premium period as declared in accordance with rule 8(3);
- (b) be reasonable having regard, in consultation with the Authority, to the regulatory capital requirements of each Scheme member established by the Authority; and
- (c) be established at a rate of 0.25 percent per annum of the average insured deposit base of the Scheme member.

Late payment fees

4 (1) As provided under section 19 of the Act, if a Scheme member fails to pay the premium contribution or additional premium contribution or any part thereof by the date specified under these Rules, the BDIC may by notice in writing impose late payment fees to be payable by a date specified in the notice and in accordance with the formula set out in paragraph (2).

(2) Any late payment fee imposed by the BDIC shall, subject to section 19(2) of the Act, be the amount computed in accordance with the following formula—

$A \times r/360 \times (\text{LIBOR} + 10\%)$, where—

- “A” is the amount of premium contribution or additional premium contribution as the case may be, which is due and owing;
- “r” is the number of days after the payment due date by which the Scheme member is late in making payment;
- “LIBOR” means the 3 months’ USS London Interbank Offered Rate fixed by the British Bankers’ Association in London, as at the payment due date.

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Method of payment of premium contributions and late payment fees

5 (1) A Scheme member shall pay the premium contribution, any additional premium contribution, any shortfall in premium contribution, and any late payment fee by means of a transfer of funds to the BDIC's bank account.

(2) For purposes of the payment under paragraph (1), the Scheme member shall make payment to the BDIC on the date specified in the notice issued by the BDIC under rule 4.

Refund

6 (1) For the purposes of section 20 of the Act, the BDIC shall notify the Scheme member who has paid a premium contribution in excess of the amount payable, in writing, of the amount of premium contributions to be refunded to the Scheme member within one month of receipt of the notice.

(2) The BDIC notification shall also include the date of the payment of the refund which shall, in any event, be no later than 15th April of the next premium year.

Payment of compensation to insured depositors

7 (1) Where a Scheme member is being wound up or has become insolvent, as provided in section 23(1) of the Act ("a failed Scheme member"), and the BDIC has determined that compensation is to be paid to insured depositors out of the Fund, the BDIC shall as soon as practicable give notice that such compensation shall be paid out of the Fund to the insured depositors of the failed Scheme member.

(2) Pursuant to section 23 of the Act, the BDIC shall publish in the Gazette the notice of payment of compensation, which shall state that a payment of compensation is to be made to the insured depositors of the failed Scheme member out of the Fund.

(3) A failed Scheme member in respect of which a notice has been published in the Gazette that compensation will be paid shall immediately exhibit at all its offices and branches in Bermuda, a notice of the decision by the BDIC to pay compensation out of the Fund to insured depositors of the failed Scheme member.

(4) A failed Scheme member shall provide such information and render such assistance and cooperation to the BDIC as may be required by the BDIC to determine the eligibility and entitlement of the insured depositors to compensation, compute the compensation payments and otherwise perform its functions under the Act.

Compensation payout preparedness

8 (1) For the purpose of facilitating the BDIC's exercise of its functions under section 5 of the Act (or in the event that an order referred to in section 23(1) of the Act is made), every Scheme member must implement a method of identifying, capturing, organising and producing its deposit liability data, in accordance with data requirements that include the means to—

- (a) facilitate the identification of depositors;
- (b) identify the specified amounts of insured deposits that apply to a depositor;

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- (c) calculate the interest accrued or payable on each deposit as of the determination date;
- (d) restrict access to the deposit liabilities or a portion of the deposit liabilities;
- (e) produce, at the determination time, the standardised data as it exists at that time.

(2) The BDIC may, at any time, for the purpose referred to in paragraph (1), request that a Scheme member provide or make available to the BDIC the standardised data, or any portion of it, and the institution must provide that standardized data to the BDIC within seven business days.

(3) Without prejudice to paragraph (2), every Scheme member shall file with the BDIC the following forms set out in the Schedule—

- (a) declaration of insured deposits, set out in Form 1;
- (b) insured deposits breakdown, set out in Form 2,
- (c) *[revoked by BR 58 / 2019 rule 2]*

not more than seven days from the end of any premium period.

(4) Every Scheme member must be capable of—

- (a) identifying its insured deposits by each of their distinctive characteristics and grouping together the insured deposits that have the same characteristics, in accordance with the data requirements; and
- (b) identifying its insured deposits in respect of each depositor by each of their distinctive characteristics and grouping together the insured deposits, in respect of a depositor, that have the same characteristics, in accordance with the data requirements.

(5) Every Scheme member must be capable of calculating the interest accrued or payable on each insured deposit as of the determination date, in accordance with the data requirements.

(6) Every Scheme member must be capable of temporarily preventing withdrawals of all or any portion of its insured deposits and of subsequently permitting withdrawals of all or any portion of those previously withheld insured deposits, in accordance with the data requirements.

(7) For the purposes of paragraph (4), the characteristics of an insured deposit include the identity of the insured depositor and whether the deposit is held by—

- (a) an individual or joint account;
- (b) a partnership, unincorporated association or sole proprietorship;
- (c) a charitable organisation;
- (d) a small business.

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(8) Every Scheme member must be capable of providing or making available the standardised data or any portion of it to the BDIC, in accordance with such Scheme member's additional data requirements, which include—

- (a) in the case of the data referred to in paragraph (1), if the determination time occurs before, on or after the determination date, not later than 4:00 p.m. on the second day after the determination date;
- (b) in the case of any other standardised data, if the determination time occurs on or after the determination date, not later than 4:00 p.m. on the day after the determination date.

(9) In this rule—

“deposit liability” means a sum of money paid on terms under which it will be repaid, with or without interest or a premium, or with any consideration in money or money's worth, either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it;

“determination date” means—

- (a) if a winding-up order is made in respect of the Scheme member, it is the date on which the petition or other originating process is filed in respect of the winding-up; or
- (b) if a winding-up order is not made in respect of the Scheme member, it is the date the Authority is of the opinion that a Scheme member is insolvent, unable or likely to become unable to meet its obligations or about to suspend payments;

“determination time” means, with respect to deposit liabilities of the Scheme member located in Bermuda or booked in Bermuda—

- (a) if the determination date is a business day, the time by which all of the transactions made on that business day are processed and posted to the deposit liability records of the insured depositors of the Scheme member; or
- (b) if the determination date is not a business day, the time by which all of the transactions, made up to and including the day of the determination date, are processed and posted to the deposit liability records of the insured depositors of the Scheme member;

“standardised data” means the information of a depositor that includes—

- (a) the name of the account holder;
- (b) the account holder's unique reference identification document;
- (c) the account number;
- (d) the account balance; and

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- (e) the account holder's contact details.

[Rule 8 paragraph (3)(b) substituted and paragraph (3)(c) revoked by BR 58 / 2019 rule 2 effective 14 May 2019]

Requirements

9 (1) For the purpose of confirming that a Scheme member has the capabilities required by these Rules, the BDIC may request the Scheme member to provide or make available to the BDIC the standardised data as defined in rule 8, or any portion of it, and evidence demonstrating that the Scheme member has the capability described in rule 8.

(2) The Scheme member must provide or make available that data or evidence within 10 business days after receiving the request from the BDIC.

Methods of payout for Scheme members

10 The BDIC may pay compensation to insured depositors using any of the following methods—

- (a) issuing cheques to insured depositors for the amount of compensation due to them by means of—
 - (i) sending cheques by post to insured depositors according to the mailing addresses recorded in the books of the failed Scheme member; or
 - (ii) arranging for collection by the insured depositors from the branches of one or more other Scheme members;
- (b) depositing the amount of compensation due to insured depositors into new accounts opened for the insured depositors with one or more other Scheme members; or
- (c) depositing the amount of compensation due to insured depositors into accounts—
 - (i) specified in writing to the BDIC by insured depositors or by means of secured on-line instruction through the BDIC website; and
 - (ii) held by insured depositors, either in their own right or jointly with other persons, with another Scheme member.

Register of insured deposits

11 (1) Every Scheme member shall maintain at all times, a register of all its products, which are products that fall within the definition of insured deposits under the Act, (referred to in this rule as “the register”), in such form and manner as may be specified by the BDIC.

(2) Every Scheme member shall, within 30 days from 1 April in each year, submit to the BDIC a copy of the register updated to 1 April of that year setting out the product descriptions of each product that qualifies as an insured deposit.

(3) A Scheme member shall notify the BDIC of any change to the register within 10 days of such change.

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(4) A Scheme member shall, upon reasonable request, make available to any person a copy of the register for inspection, at every place of business of the Scheme member where insured deposit products are offered.

(5) The register made available for inspection under paragraph (4) shall be the last register submitted to the BDIC, together with all notifications of change since that submission where such change has not been incorporated into the register.

Disclosure statement for insured deposits

12 (1) Each Scheme member shall—

- (a) post a notice on its website; and
- (b) display a statement in each of its branches,

stating that it is a Scheme member and listing its products that are eligible to be insured deposit products.

(2) The notice and statement required under paragraph (1) shall be placed in a prominent place and shall be clear and legible.

(3) Any Scheme member which contravenes paragraph (1) contravenes the provisions of section 31(1)(b) of the Act.

(4) For purposes of paragraph (1)(b), “branch” has the meaning assigned to it in regulation 2 of the Bermuda Monetary Authority (Financial Institutions) (Control) Regulations 1994, but does not include automatic teller machines.

[Rule 12 paragraph 4 inserted by BR 58 / 2019 rule 3 effective 14 May 2019]

Disclosure by Scheme member upon cessation

13 (1) Subject to paragraph (2), every Scheme member shall, as soon as practicable, disclose in writing to each of its insured depositors any occurrence of the following events—

- (a) that it will cease to be a Scheme member;
- (b) that any of its insured deposit products which the Scheme member is, or has been, offering will cease to be an insured deposit product under the Act; or
- (c) that any of its products which the Scheme member has classified as insured deposit products will be reclassified as not being insured deposit products.

(2) A Scheme member may disclose the occurrence of any of the events specified in paragraph (1) after the event if it is not possible to do so prior to the occurrence of the event.

(3) Any Scheme member which merges or consolidates with another Scheme member, or which acquires the deposit-taking business of another Scheme member (referred to as the “acquiring Scheme member”) to form part of the business of the acquiring

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Scheme member, shall disclose to every insured depositor which has insured deposits with each of the original Scheme members the following—

- (a) that the insured depositor is, for a period of one year after the date of the merger, consolidation or acquisition, as the case may be, entitled to compensation in accordance with the Act as if the merger, consolidation or acquisition, as the case may be, did not take place; and
- (b) that the insured depositor is entitled to compensation in respect of his insured deposits with each of the original Scheme members of an amount not exceeding the maximum deposit insurance coverage or the amount of insured deposits placed with the relevant Scheme member, whichever is the lower.

(4) A Scheme member shall submit a copy of the disclosure required under paragraphs (1) and (3) to the BDIC within such period as the BDIC shall direct in writing.

(5) Any Scheme member which contravenes paragraph (1) or (3) is deemed to contravene the provisions of section 33 of the Act.

Transitional provisions

14 (1) Notwithstanding the provisions of rule 3, during the transitional period the premium contribution payable by the Scheme member shall be payable on such date as is by notice specified by the BDIC, and calculated by reference to—

- (a) the average insured deposits over the premium period attributable to insured depositors as defined under paragraphs (a) and (b) of the definition of “insured depositor” in section 2 of the Act;
- (b) subject to paragraph (2), an amount equal to five percent of the aggregate average insured deposit base for insured depositors as defined under paragraph (a) of the definition of “insured depositor” in section 2 of the Act, which shall be deemed representative of the insured deposit base for insured depositors as defined under paragraphs (c) and (d) of the definition of “insured depositor” in section 2 of the Act.

(2) The provisions of paragraph (1)(b) shall remain in effect beyond the transitional period until such time as—

- (a) the BDIC notifies all Scheme members that the premium contribution calculated pursuant to paragraph (1)(b) shall be calculated with reference to the average insured deposits over the premium period attributable to insured depositors as defined under paragraphs (c) and (d) of the definition of “insured depositor” in section 2 of the Act; and
- (b) a period of six months has expired following the date of notification under sub-paragraph (a).

(3) Rules 11 and 12 shall not come into operation until after the transitional period.

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SCHEDULE

(Rule 8(3))

FORM 1

DECLARATION OF INSURED DEPOSITS <i>Deposit Insurance Act 2011 (the "Act")</i>	
Name of institution:	
Year: 20__	
Quarter ending:	
1- Total deposits*	<input type="text"/>
2- Less: Non-insured deposits**	<input type="text"/>
3- Total insured deposits***	<input type="text" value="\$0"/>
This declaration accurately presents the information required under the <i>Act</i> and the <i>Deposit Insurance Rules 2016</i> .	
_____	_____
Officer	Date

*Total deposits

** Deposits from Corporates, Trusts deposits made in foreign currencies, pledged accounts and blocked accounts.

*** Equal the amount in Form 2 box 5(D) in Insured Deposits Breakdown

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FORM 2

INSURED DEPOSITS BREAKDOWN <i>Deposit Insurance Act 2011 (the "Act")</i>					
Year	20__				
Quarter ending:					
Name of institution:					
Bermuda Dollar Insured Deposits	Total Insured Deposits*			Number of depositors	
	(B)** ≤ 25 000 \$	(C)** > 25 000 \$	(D) = (B) + (C)	(E) ≤ 25 000 \$	(F) > 25 000 \$
1- Individuals and Joint accounts	\$0				
2- Partnership, Unincorporated associations and sole proprietorship	\$0				
3- Charitable Organisations	\$0				
4- Small Businesses Deposits	\$0				
5- TOTAL	\$0	\$0	\$0	0	0
<i>Per Summary</i>	\$0				

* Insured deposits include savings, fixed deposit and current accounts in Bermuda Dollars, less deposits from corporates, trusts, deposits made in foreign currencies, pledged accounts and blocked accounts (section 2(2) of the Act)

** For accounts >\$25,000, insert the first \$25,000 in column B and remainder in column C

[Schedule revoked and substituted by BR 58 / 2019 rule 4 effective 14 May 2019]

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Made this 18th day of August 2016

Chairman,
Bermuda Deposit Insurance Corporation

[Amended by:
BR 58 / 2019]