



# **COMPENSATION MODULE**



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<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP-A: Introduction</b>

## **CP-A.1 Purpose**

### *Executive Summary*

- CP-A.1.1 The purpose of this Module is to set out rules and regulations establishing a Deposit Protection Scheme (the ‘Scheme’) for compensating eligible depositors (as defined under Section CP-2.1) when the banks (referred to under Section CP-2.1) are unable, or likely to be unable, to satisfy claims against them.
- CP-A.1.2 The body established to operate and administer the compensation scheme is the Deposit Protection Board (the ‘Board’). The Module sets out rules and regulations that would allow the Board to:
- (a) Administer and implement the scheme;
  - (b) Calculate compensation amount; and
  - (c) Establish rules of operation.
- CP-A.1.3 The Module also specifies:
- (a) Who is eligible for receiving compensation;
  - (b) How the scheme will be funded;
  - (c) Who the contributing banks are; and
  - (d) What are contributing banks’ responsibilities regarding the implementation of the scheme.

### *Legal Basis*

#### **CP-A.1.4**

This Module sets out how the CBB now applies Resolution No. 3 of His Highness the Prime Minister dated 1<sup>st</sup> November 1993 (the “Resolution”) in light of certain legislative and regulatory changes that have taken place since that date. It also contains a modified version of a Regulation issued by the Bahrain Monetary Agency by way of circular (OG/423/93) on 28<sup>th</sup> November 1993 (the “Regulation”) in order to implement the Resolution. The Regulation (as modified) is currently effective by virtue of Article 188 (and Article 4) of the Central Bank of Bahrain and Financial Institutions Law 2006 (‘CBB Law’). The Regulation is applicable to all conventional bank licensees.

- CP-A.1.5 For an explanation of the CBB’s rule-making powers and different regulatory instruments, see Section UG-1.1.



MODULE	CP: Compensation
CHAPTER	CP-A: Introduction

## CP-A.2 Key Requirements

**CP-A.2.1** The Deposit Protection Board (the ‘Board’) should, subject to and in accordance with the terms and conditions of this Module, be responsible for the activities set out under Section CP-1.1.

**CP-A.2.2** The Board should be convened and ready to carry out its duties in the case of any of the following events identified under Section CP-1.2.

**CP-A.2.3** The Scheme will apply to eligible deposits (as defined in Section CP-2.1) held with the Bahrain offices of retail banks which are licensed by the CBB.

**CP-A.2.4** Each eligible depositor should be entitled to receive under the Scheme a maximum of the lesser of:

- (a) Three quarters of the combined total amount of all of his eligible deposits with the relevant bank; or
- (b) BD 15,000.

**CP-A.2.5** Notwithstanding the provisions of Section CP-2.2, the amount payable under the Scheme in any one calendar year (the ‘current year’) should not exceed BD 25,000,000.

**CP-A.2.6** Upon the convening of the Board in accordance with Section CP-1.2, the Board will calculate the total amount of compensation to be paid under the Scheme in the case of the relevant bank, as well as the amount of compensation payable under the Scheme to each eligible depositor of such relevant bank.

**CP-A.2.7** Upon receipt by the Board of confirmation from the (lead) mandated bank that the actions referred to in Section CP-2.3 have been completed, each eligible depositor should be sent a certificate in duplicate (attached in Appendix CP-1) by the Board informing such eligible depositor of the amount of compensation payable to him/her under the Scheme in respect of his/her eligible deposit(s) with the relevant bank.



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## CP-A.2 Key Requirements (continued)

### CP-A.2.8

The CBB requires all retail bank licensees referring (directly or indirectly) to the protection of deposits in related marketing materials and in general notices featured within banking halls and in account documentation, including Annual Reports, to prominently disclose the statement set out under Section CP-2.4.



<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP-A: Introduction</b>

## **CP-A.3 Module History**

CP-A.3.1 This Module was first issued in July 2004 as part of the conventional principles volume. All regulations in this volume have been effective since this date. All subsequent changes are dated with the month and year at the base of the relevant page and in the Table of Contents. Chapter 3 of Module UG provides further details on Rulebook maintenance and control.

CP-A.3.2 A list of the most recent changes made to this Module are detailed in the table below:

### *Summary of Changes*

Module Ref.	Change Date	Description of Changes
CP-1.2	10/07	New reference to CBB Law
CP-2.4	10/07	Renaming of Scheme Disclosure to “CBB”
CP-2.1	04/10	Reference to the Prime Ministerial Resolution No. (3) of 1993 concerning the ‘Deposit Protection Scheme’
CP	01/2011	Various minor amendments to ensure consistency in formatting of CBB Rulebook.
CP-A.1.4 and A.1.5	01/2011	Added legal basis.

### *Evolution of the Module*

CP-A.3.3 Prior to the development of the Rulebook, the CBB had issued various circulars representing regulations covering the operations and establishment of the Deposit Protection Scheme and the Deposit Protection Board. These circulars have now been consolidated into the Compensation Module. These circulars and their evolution into this Module are listed below:

Circular Ref.	Date of Issue	Module Ref.	Circular Subject
OG/423/93	28 Nov 1993	CP-1 – CP-2	Deposit Protection Scheme (the “Scheme”)
OG/425/94	21 Dec 1994	CP-2.4	Deposit Protection

### *Effective Date*

**CP-A.3.4** The contents in this Module are effective from the date depicted in the original circulars/information pack (see Paragraph CP-A.3.3) from which the requirements are compiled.



MODULE	CP: Compensation
CHAPTER	CP-1: Deposit Protection Board (the 'Board')

## CP-1.1 Constitution of the Board

### CP-1.1.1

The contents of this Chapter set out the details of the constitution, authority and administration of the Deposit Protection Board (the 'Board').

### CP-1.1.2

The Deposit Protection Board (the 'Board') should, subject to and in accordance with the terms and conditions of this Module, be responsible for:

- (a) The administration and implementation of a Deposit Protection Scheme (the 'Scheme');
- (b) The determination of the amount of compensation which is to be paid out under the Scheme in the event of the liquidation of a relevant bank (as defined in Section CP-1.2 below); and
- (d) The establishment of the rules of operation of the Board.

### CP-1.1.3

The Board should consist of the following persons, whose period of membership of the Board (other than in the case of the person referred to in Paragraph CP-1.1.3(e) below) should be for a three year renewable period:

- (a) Two representatives of the CBB, who shall be appointed by the Governor of the CBB, one of whom should be Chairman of the Board;
- (b) Four representatives of commercial banking firms in Bahrain, who should be appointed by the Governor of the CBB following consultation with the Bankers' Society of Bahrain;
- (c) One representative of each of the Ministries of Finance, of Justice and Islamic Affairs, and of Commerce, who should be appointed by their Ministers;
- (d) One representative of the Bahrain Chamber of Commerce and Industry, who should be appointed by the President thereof; and
- (e) Upon a retail banking licensee becoming a relevant bank in accordance with Section CP-1.2, and for the purpose of the operation of the Scheme in the case of that relevant bank only, the liquidator of such relevant bank.



<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP-1: Deposit Protection Board</b>

## **CP-1.1 Constitution of the Board (continued)**

### **CP-1.1.4**

Upon the appointment of the members of the Board (other than the person referred to in Paragraph CP-1.1.3(e) above), the Board shall be formally constituted by a Resolution of the Minister of Finance.





<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP-1: Deposit Protection Board</b>

## **CP-1.2 Convening of the Board**

### **CP-1.2.1**

The Board should be convened and ready to carry out its duties in the case of:

- (a) A forced liquidation carried out pursuant to the CBB Law, no later than 7 calendar days after the CBB has applied to the Minister of Finance, under the provisions of Article 143 of the CBB Law, for his approval for an application to be made to the Bahrain courts for an insolvent banking firm (herein referred to as the 'relevant bank') in accordance with Article 144 and 145 of the pre-mentioned Law; or
- (b) The liquidation of a relevant bank in any other case, no later than 7 days after the CBB is informed that a relevant bank is to be wound up.



<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP-1: Deposit Protection Board</b>

### **CP-1.3 Voting by the Board**

#### **CP-1.3.1**

The Board should meet as often as is necessary to carry out its duties under the regulation set out in this Module and should take decisions by a simple majority vote of those present at any meeting thereof provided that, in the event of a tie, the Chairman will have the casting vote.

#### **CP-1.3.2**

Decisions of the Board will be binding and will not be subject to appeal.



MODULE	CP: Compensation
CHAPTER	CP-2: Deposit Protection Scheme (the 'Scheme')

## CP-2.1 Application of the Scheme

### CP-2.1.1

The Scheme will apply to eligible deposits (as defined in Paragraph CP-2.1.5 below) held with the Bahrain offices of retail bank licensees which are licensed by the CBB. These retail banks (excluding the relevant bank as referred to under Section CP-1.2) are herein referred to as the 'contributing banks' which term will, unless otherwise stated herein, include the mandated bank(s) as defined in Section CP-2.3 below.

### CP-2.1.2

Without prejudice to Paragraph CP-2.1.1 above, the Board may, at its discretion, exclude (in whole or in part) from compensation under the Scheme, any depositors of a relevant bank in Bahrain who are entitled to claim in a similar scheme established in another jurisdiction, where such scheme covers the deposit liabilities of the Bahrain offices of such relevant bank.

### CP-2.1.3

Without prejudice to Paragraph CP-2.1.1 above, the Board may, at its discretion, exclude (in whole or in part) from the requirement to contribute to the Scheme, any retail bank licensee in Bahrain whose Bahrain offices' deposit liabilities are (in whole or in part) covered by a similar scheme established in another jurisdiction provided that evidence, in form and substance satisfactory to it, of such coverage is provided to the Board.

### CP-2.1.4

Subject to the provision of Paragraph CP-2.1.6 below, the Scheme will apply to deposits (each an 'eligible deposit') held with the Bahrain offices of retail bank licensees, in Bahrain Dinars and other currencies, by persons (each an 'eligible depositor') who are either residents or non-residents of Bahrain.

### CP-2.1.5

In accordance with the Prime Ministerial Resolution No. (3) of 1993 with respect to the Deposit Protection Scheme, 'deposit' shall mean a current, call, saving and/or fixed deposit in Bahrain Dinars and other currencies, as well as non-bearer Certificates of Deposit denominated in Bahrain Dinars and other currencies issued by the relevant bank.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposit Protection Scheme (the 'Scheme')

## CP-2.1 Application of the Scheme (continued)

### CP-2.1.6

Without prejudice to the provisions of Paragraph CP-2.1.4 above, the Scheme will not apply to deposits which have, in the opinion of the Board, been illegally gained and/or relate to illicit or illegal matters. The Scheme will also not apply to deposits of:

- (a) The Bahrain Government and Bahrain Government Agencies (which shall, for the purposes of this Regulation, mean entities in which the Bahrain Government holds 50% or more of the share capital);
- (b) Other banks including, for the sake of clarity, the CBB;
- (c) The parent, subsidiaries, associates or affiliates of the relevant bank;
- (d) Directors, shareholders with more than 5% shareholding (ordinary and/or preference), or managers of the relevant bank; and/or
- (e) Persons whose identity cannot be ascertained.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposit Protection Scheme (the 'Scheme')

## CP-2.2 Operation of the Scheme

### CP-2.2.1

Each eligible depositor should be entitled to receive under the Scheme a maximum of the lesser of:

- (a) Three quarters of the combined total amount of all of his eligible deposits with the relevant bank; or
  - (b) BD 15,000,
- irrespective of the number, type, value and currency of eligible deposits held by such eligible depositor with the relevant bank at the time the Scheme is put into operation for such relevant bank.

### CP-2.2.2

The amount referred to in Paragraph CP-2.2.1 above may be amended from time to time by the CBB. In calculating the amount payable in each case hereunder, the Board will be entitled to take account of various matters including, but not limited to, any set off rights to which the relevant bank was entitled against an eligible depositor or an eligible deposit at the proposed date for the making of such payment as well as any amounts paid out during the period of administration of the relevant bank by the CBB (if appropriate), and the amount payable hereunder shall be reduced accordingly.

### CP-2.2.3

Notwithstanding the provisions of Paragraph CP-2.2.1 above, the amount payable under the Scheme in any one calendar year (the 'current year') should not exceed BD 25,000,000 (regardless of the number of relevant banks in existence in the year), provided that if circumstances so demand (and subject to the prior approval of the Governor of the CBB being obtained) the Board (which term for this Paragraph, will not include the liquidator of a relevant bank) may make available to the Scheme for the current year:

- (a) Any portion of the above amount for the calendar year immediately preceding the current year which has not been utilized in that calendar year; together with
- (b) Any portion of the above amount for the calendar year immediately following the current year.

The Board may, from time to time and with the prior approval of the Governor of the CBB, amend the figure of BD 25,000,000 referred to in this Paragraph.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposit Protection Scheme (the 'Scheme')

## CP-2.2 Operation of the Scheme (continued)

### CP-2.2.4

In the event that the amount to be payable under the Scheme to eligible depositors of a relevant bank in accordance with Paragraph CP-2.2.1 above is greater than the maximum sum determined to be available in the Scheme for such relevant bank under Paragraph CP-2.2.3 above, the amounts determined to be payable to such eligible depositors under Paragraph CP-2.2.1 above should be made on a pro rata basis in accordance with a formula to be determined by the Board.

### CP-2.2.5

If, in the opinion of the Board, the amount which would be payable to eligible depositors in accordance with the Paragraph CP-2.2.4 above would make the Scheme inappropriate (for administrative and/or other reasons) for a relevant bank, the Scheme may not be made available for such relevant bank.

### CP-2.2.6

If one or more eligible deposits with the relevant bank are held in the name of more than one person, each such person will be deemed to be a separate eligible depositor for an amount ascertained by dividing the total amount of such eligible deposit(s) by the number of such persons.

### CP-2.2.7

An eligible deposit to which two or more persons are entitled as members of a partnership (whether or not in equal shares) should be treated as a single eligible deposit and the partners in such partnership should be treated as one eligible depositor.

### CP-2.2.8

If a person establishes, to the satisfaction of the Board, that:

- (a) He/she is a trustee for, or otherwise holds, one or more eligible deposits with the relevant bank; and
- (b) The beneficial owner of each such eligible deposit is a person separate and distinct from the beneficial owner of any other eligible deposit with the relevant bank,

such person should be treated as a different eligible depositor for each such eligible deposit for the purposes of this Module. However, in the event that the beneficial owner of one or more eligible deposits (regardless of in whose name such eligible deposits are held) is the same person, such eligible deposits should, for the purposes of this Module, be treated as being held by one eligible depositor.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposit Protection Scheme (the 'Scheme')

## CP-2.2 Operation of the Scheme (continued)

### CP-2.2.9

No assignment or other transfer of the legal or beneficial ownership of an eligible deposit(s), or any part thereof, should be considered valid if, in the opinion of the Board, the purpose of such assignment or transfer is to enable any person(s) (including an eligible depositor(s)) to gain an advantage in the Scheme which is not intended to be given by the Regulation in this Module.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposit Protection Scheme (the 'Scheme')

### CP-2.3 Procedures for Making Claims under the Scheme

#### CP-2.3.1

Upon the convening of the Board in accordance with Section CP-1.2 above, the Board will calculate the total amount of compensation to be paid under the Scheme in the case of the relevant bank, as well as the amount of compensation payable under the Scheme to each eligible depositor of such relevant bank. In addition, one or more of the contributing banks will be appointed by the Board to act as the mandated bank(s) (the 'mandated bank(s)') for the purpose of the operation of the Scheme for the relevant bank.

#### CP-2.3.2

Following the completion of the calculations referred to in Paragraph CP-2.3.1 above, the total amount of compensation due to be paid under the Scheme in the case of the relevant bank should be paid by the mandated bank into a special account to be held by itself. In the event that there is more than one mandated bank, the total amount of compensation due to be paid should be paid by the mandated banks into a special account to be held by one of the mandated banks so designated by the Board (such bank being herein referred to as the 'lead mandated Bank'. In either case, such account should be entitled 'The Central Bank of Bahrain – Deposit Protection Board'.

#### CP-2.3.3

At the same time as the mandated bank(s) is/are carrying out the action referred to in Paragraph CP-2.3.2 above, each of the contributing banks (other than the (lead) mandated Bank) should execute in favour of such (lead) mandated bank an indemnity in form and substance to be agreed between the Board and the contributing banks.

#### CP-2.3.4

The proportion of the total amounts referred to in Paragraph CP-2.3.2 above to be paid by each of the contributing banks should be calculated in accordance with a formula determined by the Board, which formula will take into account the relative size of each such bank's deposit base.





MODULE	CP: Compensation
CHAPTER	CP 2: Deposit Protection Scheme (the 'Scheme')

### CP-2.3 Procedures for Making Claims under the Scheme (continued)

#### CP-2.3.5

Upon receipt by the Board of confirmation, in form and substance satisfactory to it, from the (lead) mandated bank that the actions referred to in Paragraph CP-2.3.2 and Paragraph CP-2.3.3 above have been completed, each eligible depositor should be sent a certificate in duplicate (in the form, or substantially in the form, of the Schedule attached in Appendix CP-1) by the Board informing such eligible depositor of the amount of compensation payable to him/her under the Scheme in respect of his/her eligible deposit(s) with the relevant bank.

#### CP-2.3.6

The certificate referred to in Paragraph CP-2.3.5 above should also contain instructions as to the method by which, and time within which, the compensatory amount referred to therein may be collected by the eligible depositor from the (lead) mandated bank. No amounts of compensation should be payable under the scheme after the expiry of the period referred to in such certificate, which period should not be less than 12 months.

#### CP-2.3.7

When the duplicate copy of the certificate referred to in Paragraph CP-2.3.5 above is signed by an eligible depositor, it should constitute an assignment by such eligible depositor in favour of the (lead) mandated bank, of all rights and benefits in relation to that proportion of any claim which he/she would otherwise have in the liquidation of the relevant bank which is represented by the compensatory amount which he/she has received under the Scheme. Such assignment should be made to the (lead) mandated bank on its own behalf and as agent on behalf of the other contributing banks to the Scheme in the case of the relevant bank. Upon receipt of the signed duplicate copy of the certificate from an eligible depositor, the (lead) mandated bank should pay the amount referred to in the certificate to such eligible depositor.

#### CP-2.3.8

At the end of such periods as will be determined between the Board and the (lead) mandated bank, each of the contributing banks (other than the mandated bank(s)) should pay to the (lead) mandated bank that portion of its contributory share of the total amount referred to in Paragraph CP-2.3.1 above (such contributory share being determined in accordance with the formula to be determined by the Board pursuant to Paragraph CP-2.3.4 above and being notified to each contributing bank by the Board) which the (lead) mandated bank has paid to eligible depositors under the Scheme in the case of the relevant bank in the immediately preceding period.



<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP 2: Deposit Protection Scheme (the 'Scheme')</b>

### **CP-2.3 Procedures for Making Claims under the Scheme (continued)**

#### **CP-2.3.9**

The (lead) mandated bank should be entitled to claim as an ordinary creditor, on its own behalf and as agent for and on behalf of the other contributing banks, in the liquidation of the relevant bank for that proportion of the total amounts referred to in Paragraph CP-2.3.1 above which has been paid out to eligible depositors under the Scheme at the end of the period referred to in Paragraph CP-2.3.6 above.

#### **CP-2.3.10**

Any amount received by the (lead) mandated bank in the liquidation of the relevant bank should be reimbursed to the contributing banks pro-rata to such contributing banks' contributions to the amounts paid out under the Scheme in the case of the relevant bank.

#### **CP-2.3.11**

The liquidator of the relevant bank should, in making any payments to eligible depositors thereof in the liquidation of such relevant bank, take such steps as are necessary to ensure that eligible depositors must not receive any payment in the liquidation of the relevant bank for amounts already paid out under the Scheme to such eligible depositors.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposit Protection Scheme (the 'Scheme')

## CP-2.4 Disclosure of Scheme's Applicability

### CP-2.4.1

The Central Bank requires all retail bank licensees referring (directly or indirectly) to the protection of deposits in related marketing materials and in general notices featured within banking halls and in account documentation, including Annual Reports, to prominently disclose the following statement:

- "Subject to the provisions thereof, deposits held with the Bahrain office of [name of the banking firm] are covered by the Deposit Protection Scheme established by the Central Bank of Bahrain regulation concerning the establishment of a Deposit Protection Scheme and a Deposit Protection Board".

### CP-2.4.2

Retail bank licensees should, in discussions and/or correspondence with new and prospective customers, bring the Deposit Protection Scheme and the protection afforded by it to such customers' notice.



<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP 2: Deposit Protection Scheme (the 'Scheme')</b>

## **CP-2.5 Other Provisions**

### **CP-2.5.1**

Save as otherwise set out above, nothing in this regulation shall affect the rights of depositors of a relevant bank to claim as creditors in the liquidation of the relevant bank, regardless of the basis on which such claim is made.

### **CP-2.5.2**

The provisions of Articles 116 to 120 of the CBB Law relating to secrecy and confidentiality should apply to all matters discussed, decisions reached and records kept by the Board relating to the Scheme.

### **CP-2.5.3**

The Board (which term, for the purpose of this Paragraph, should not include the liquidator of a relevant bank) should be entitled to make subsidiary rules for the proper and regular enforcement of this Module, and should be the final arbiter of any dispute in relation to this Module and/or the Scheme which may occur from time to time.