



# **COMPENSATION MODULE**



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CHAPTER	CP-A: Introduction

## CP-A.1 Purpose

### *Executive Summary*

CP-A.1.1 The purpose of this Module is to set out a summary of rules and regulations establishing a Deposits and Unrestricted Investment Accounts Protection Scheme (the ‘Scheme’) for compensating Eligible account holders when the banks (referred to under Section CP-2.1) are unable, or are likely to be unable, to satisfy claims against them. For the purpose of this Module, Eligible account holders refer to Eligible Depositor and/or Investor as defined under Paragraph CM-2.1.5.

CP-A.1.2 The body established to operate and administer the compensation scheme is the Deposits and Unrestricted Investment Accounts Protection Board (the ‘Board’). This Module describes the rules that would allow the Board to:

- (a) Administer and implement the scheme; and
- (b) Establish rules of operation.

CP-A.1.3 This Module also describes:

- (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

The legal basis for this Module is the Regulation issued pursuant to CBB Resolution No.(34) for the year 2010 with respect to promulgating a Regulation protecting deposits and unrestricted investment accounts, which in turn was issued pursuant to Article 188 of the Central Bank of Bahrain and Financial Institutions Law 2006 (‘CBB Law’). The Regulation is applicable to all retail banks, conventional and Islamic.

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



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CHAPTER	CP-A: Introduction

## CP-A.2 Key Requirements

**CP-A.2.1** The Board is, subject to and in accordance with the terms and conditions of the Regulation, responsible for the activities set out under Paragraph CP-1.1.4.

**CP-A.2.2** The Board will convene and be ready to carry out its duties if either of the events set out in Section CP-1.2 arise.

**CP-A.2.3** The Scheme will apply to Eligible Accounts (as defined in Paragraph CP-2.1.2) held with the Bahrain offices of retail banks which are licensed by the CBB.

**CP-A.2.4** Upon the convening of the Board in accordance with Section CP-1.2, the Board calculates 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 and/or Investor of such relevant bank.

**CP-A.2.5** Upon receipt by the Board of confirmation from the (Lead) Mandated bank that the actions referred to in Section CP-2.4 have been completed, each Eligible Depositor and/or Investor is sent a certificate in duplicate (included under Part B, Supplementary Information as Appendix CP-1A) by the Board informing such Eligible Depositor and/or Investor of the amount of compensation payable to him/her under the Scheme in respect of his/her Eligible Account(s) with the relevant bank.

**CP-A.2.6** The CBB requires all Islamic retail bank licensees referring (directly or indirectly) to the protection of Deposits and unrestricted investment accounts 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 Paragraph CP-2.5.1.



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<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 by the BMA and updated in October 2007 to reflect the transfers of responsibilities to the CBB. Following the issuance of the Resolution No.(34) in respect of protecting Deposits and Unrestricted Investment Accounts in December 2010, the Module was amended in October 2012 to be in line with the new Regulation and to include previous requirements that were in place in the originally issued Module CP. Any material changes that have subsequently been made to this Module are annotated with the calendar quarter date in which the change was made: Chapter UG-3 provides further details on Rulebook maintenance and version control.

CP-A.3.2 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-A to CP-2	10/2012	Amendments due to the introduction of Resolution No.(34) of 2010.

### ***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 of this Module were effective from their date of issuance.

**CP-A.3.5** Capitalised terms used in this Module shall, save as the context requires otherwise, have the meanings ascribed to them in the Regulation.

**CP-A.3.6** In the event of an inconsistency between the rules of this Module and the rules of the Regulation, the rules of the Regulation shall prevail.



<b>MODULE</b>	<b>CP:</b>	<b>Compensation</b>
<b>CHAPTER</b>	<b>CP-B:</b>	<b>Scope of Application</b>

## **CP-B.1      Scope of Application**

### **CP-B.1.1**

The contents of this Module – unless otherwise stated – apply to all Islamic retail bank licensees and their retail operations in Bahrain.



MODULE	CP: Compensation
CHAPTER	CP-1: Deposits and Unrestricted Investment Accounts Protection 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 Board.

### CP-1.1.2

The Board is, subject to and in accordance with the terms and conditions of the Regulation, responsible for the protection of Eligible Accounts, including determining:

- (a) What contributions Islamic retail bank licensees should make to the Islamic Fund;
- (b) The amount of compensation to be paid out to Eligible account holders; and
- (d) Any additional rules under which the Board will operate.

### CP-1.1.3

The Board consists of eleven persons appointed by the Governor of the CBB, whose period of membership must be for a three-year renewable period:

- (a) Two representatives of the CBB, one of whom should be Chairman and the other the Deputy Chairman of the Board;
- (b) Four representatives of retail banks in Bahrain, who should be appointed by the Governor;
- (c) Two representatives of Government, the first representing the Ministry of Finance, the second representing the Ministry of Industry and Commerce, both should be nominated by their respective Ministers; and
- (d) Three independent persons, not from the above categories, appointed by the Governor.

### CP-1.1.4

The Board administers the two Funds established in accordance with Article 13 of the Regulation, and is responsible for all decision-making and accounting treatment in respect of the two Funds. No liability attaches to the CBB as a result of the Board managing the two Funds.



MODULE	CP:	Compensation
CHAPTER	CP-1:	Deposits and Unrestricted Investment Accounts Protection Board

## CP-1.2 Convening of the Board

### CP-1.2.1

The Board must be convened and must commence its responsibilities by following the compensation process for the Eligible account holders upon:

- (a) Any Islamic retail bank licensee being put under administration by the CBB; or
- (b) Any Islamic retail bank licensee being put into liquidation.

In each case, such bank hereinafter referred to as a “defaulting bank”.





<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP-1: Deposits and Unrestricted Investment Accounts Protection Board</b>

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

#### **CP-1.3.1**

The Board meets as often as is necessary to carry out its duties under the Regulation referred to in this Module and takes 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 are binding and are not subject to appeal.



MODULE	CP: Compensation
CHAPTER	CP-2: Deposits and Unrestricted Investment Accounts Protection Scheme

## CP-2.1 Application of the Scheme

**CP-2.1.1** The Scheme will apply to Eligible Accounts (as defined in Paragraph CP-2.1.2 below) held with the Bahrain offices of Islamic retail bank licensees which are licensed by the CBB.

**CP-2.1.2** For Islamic retail bank licensees, Eligible Accounts means any Deposit Account (as defined in Paragraph CP-2.1.3) and Unrestricted Investment Account, and any other deposits or accounts similar in nature and which have similar characteristics which are approved by the CBB, regardless of currency, with the exception of bearer certificates of deposit.

**CP-2.1.3** For the purpose of Paragraph CP-2.1.2, Deposit Account means the account that is defined being a deposit in accordance with the CBB Resolution No.(23) of 2009 in respect of Definition of Deposit.

**CP-2.1.4** Without prejudice to Paragraph CP-2.1.1 above, the Board may, at its discretion, exclude (in whole or in part) from compensation payments to any Eligible account holder of the defaulting bank in Bahrain who are entitled to claim in a similar scheme established in another jurisdiction, where such scheme covers the deposit liabilities and unrestricted investment accounts of the Bahrain offices of such relevant bank.

**CP-2.1.5** For Islamic retail bank licensees, Eligible Depositor and/or Investor means any natural person, (resident or non-resident), holding an Eligible Account(s) with an Islamic retail bank in the Kingdom. It does not include Deposits and Unrestricted Investments Accounts held with an Islamic retail bank's foreign branches operating outside the Kingdom.

**CP-2.1.6** Without prejudice to Paragraph CP-2.1.1, the Board may, at its discretion, exclude (in whole or in part) from the requirement to contribute to the Islamic Fund, any Islamic retail bank licensee in Bahrain whose Eligible Accounts (in whole or in part) are covered by a similar scheme established in another jurisdiction provided that evidence of such coverage is provided to the Board to its satisfaction.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposits and Unrestricted Investment Accounts Protection Scheme

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

### CP-2.1.7

Without prejudice to the provisions of Paragraph CP-2.1.2, the Scheme will not apply to Deposits and unrestricted investment accounts 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:

- (a) Accounts of shareholders with 10% or more shareholding (ordinary or preference), board members and senior managers of the defaulting bank; and/ or
- (b) Accounts of persons whose identity cannot be ascertained.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposits and Unrestricted Investment Accounts Protection Scheme

## CP-2.2 Coverage of the Scheme

### CP-2.2.1

Each Eligible account holder shall be entitled under the Regulation to claim an amount equivalent to the amount deposited and/or invested by him in an Eligible Account save that no Eligible account holder shall be entitled to receive more than BD20,000 (Twenty Thousand Bahraini Dinars) from the total amount of his Eligible Account held with the defaulting bank regardless of the number and currency of Deposits and unrestricted investment accounts. Other currencies shall be converted into Bahraini Dinars at the exchange rate on the date on which the CBB determines that the Islamic retail bank licensee is a defaulting bank.

### CP-2.2.2

In calculating the amount payable to an Eligible account holder, the Board shall have the right to set-off the debts of the Eligible account holder with the defaulting bank and deduct any expenses incurred by the Board in paying out such amounts.

### CP-2.2.3

A joint Eligible Account should be treated as a single Eligible Account.

### CP-2.2.4

If the Board is satisfied that a person is a trustee of an Eligible Account with a defaulting bank, and that the beneficial owner of any such Account has no other Eligible Account with the defaulting bank, the Board shall deem such beneficial owner as a separate Eligible account holder. However, in the event that a beneficial owner of any of such Eligible Account held in the name of the trustee is the same owner of other Eligible Account at the defaulting bank, such accounts, including the account(s) registered in the name of trustee, shall be treated as a single Eligible Account.

### CP-2.2.5

No transfer of any part of an Eligible Account shall be considered valid if, in the opinion of the Board, the purpose of such transfer is to enable any person, including an Eligible account holder, to gain an advantage that is not permitted or intended by this Module.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposits and Unrestricted Investment Accounts Protection Scheme

## CP-2.3 The Deposits and Unrestricted Investment Accounts Protection Funds

**CP-2.3.1** For the purpose of the Scheme, the Board administers two separate funds referred to as the “Conventional Banks Fund” and the “Islamic Banks Fund” as defined under Article 1 of the Regulation. Each Fund shall constitute a separate legal entity and shall have an independent balance sheet from the CBB.

**CP-2.3.2** Islamic retail bank licensees collectively contribute an initial aggregate amount of BD20 million (Twenty Million Bahraini Dinars) over a period of fifteen years and title to such monies once contributed shall legally belong to the Islamic banks Fund.

**CP-2.3.3** The Board periodically assesses the size of the Islamic Fund in relation to liabilities to be covered and, where appropriate, makes recommendations to the CBB for increasing or decreasing the amount of the Islamic Fund. No such adjustments to the aggregate amount BD80 million (Eighty Million Bahraini Dinars) for both Funds shall be made without the express approval of the CBB.

**CP-2.3.4** The contribution of each Islamic retail bank licensee in the total amount of the Fund is determined on an annual pro-rata basis of the total Eligible Accounts of all Islamic retail bank licensees in Bahrain. The CBB provides the Board with the necessary data to allow it to determine the amounts of contributions each Islamic retail bank licensee must make. The Board may allow the Islamic retail bank licensees to make its contribution in the form of monthly installments which shall be charged against the profit & loss account of the banks.

**CP-2.3.5** No contribution (or part thereof) is refundable to an Islamic retail bank licensee in any circumstance.

**CP-2.3.6** Islamic retail bank licensees pay the contributions referred to in Paragraph CP-2.3.4 within the periods specified by the Board. Each Islamic retail bank licensee is notified of the amount of its calculated contribution as well as the date of payment thereof.



<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP 2: Deposits and Unrestricted Investment Accounts Protection Scheme</b>

### **CP-2.3 The Deposits and Unrestricted Investment Accounts Protection Funds (continued)**

- CP-2.3.7 In the event of failure of any Islamic retail bank licensee in the payment of the full contribution during the periods specified by the Board, the CBB may take enforcement action against that bank, including the imposition of administrative fines in accordance with Article 129 of the CBB Law and, in cases of repeated violation, withdrawal of the licence granted by the CBB.
- CP-2.3.8 In the event that a new Islamic retail bank licensee joins the Islamic Fund during any year, the Board determines the contribution of that bank to the Fund on the basis of the minimum payment made by other participating banks during that year for the remaining period of the year after dividing the full contribution amount over the number of months of a year. At the beginning of the following year, there will be an assessment of that bank's contribution based on the size of its Eligible Accounts base.
- CP-2.3.9 The Board determines the investment policy of the Funds and the CBB is responsible for implementing such policy without receiving any commission or charges in return. Investments made from the Islamic Fund must comply with Islamic Shari'a principles and be under the supervision of the CBB's Shari'a Board.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposits and Unrestricted Investment Accounts Protection Scheme

## CP-2.4 Procedures for Making Claims under the Scheme

### CP-2.4.1

Upon the Board following the compensation process in accordance with Article 4 of the Regulation, the Board calculates the total amount of compensation payable thereunder to each Eligible account holder of the defaulting bank. The total amount of compensation payable shall be remitted to the Bank(s) designated by the Board to act as a Lead Mandated Bank and/or Mandated Bank(s) for processing compensation payments to Eligible account holders of the defaulting bank.

### CP-2.4.2

For the purposes of this Module, Lead Mandated Bank means the bank appointed by the Deposits and Unrestricted Investment Accounts Protection Board to administer the procedures to make compensation payments.

### CP-2.4.3

For the purposes of this Module, Mandated Bank(s) means such other banks mandated by the Lead Mandated Bank to assist and/or participate in the processing of compensation payments.

### CP-2.4.4

In the event of the amounts of the Islamic Fund being insufficient to cover the total compensation payable in accordance with the Regulation, the Board may cover the shortfall by borrowing (upon such terms and conditions as it considers appropriate) and such borrowings shall be reimbursed by future contributions from the Islamic retail bank licensees as the case may be.

### CP-2.4.5

Following the completion of the calculation referred to in Paragraph CP-2.4.1, the Lead Mandated Bank and/or Mandated Bank(s) pays, into a special account to be held by it/them, the total amount allocated to compensate the Eligible account holders with the defaulting bank.

### CP-2.4.6

Upon receipt by the Board of confirmation from the Lead Mandated Bank that the requirements of Paragraphs CP-2.4.1 to CP-2.4.3 have been satisfied, the Board sends to each Eligible account holder a certificate in the form set out in Appendix CP-1A, informing each Eligible account holder of the amount of compensation due to him/her hereunder in respect of his/her Eligible Account(s) with the defaulting bank.



MODULE	CP: Compensation
CHAPTER	CP 2: Deposits and Unrestricted Investment Accounts Protection Scheme

## CP-2.4 Procedures for Making Claims under the Scheme (continued)

**CP -2.4.7** Appendix CP-1A contains instructions as to the method by which, and time within which, the compensatory amount referred to therein may be collected by the Eligible account holder from the Lead Mandated Bank or Mandated Bank(s). No amounts of compensation shall be payable hereunder after the expiry of the period referred to in such certificate, which period shall not be more than 12 months.

**CP-2.4.8** Appendix CP-1B, “Customer Acknowledgment and Waiver” form is signed by an Eligible account holder, and constitutes a waiver of any claims he (or his successors or assigns) may wish to make against the Lead Mandated Bank and/or the Mandated Bank(s) and/or the Board in the future in respect of the amount being paid to him, and, a waiver to the Board of all his rights and interests related to that proportion of his claim against the defaulting bank.

**CP-2.4.9** Upon receipt of the signed Customer Acknowledgment and Waiver from an Eligible account holder, the Lead Mandated Bank and/or the Mandated Bank(s) shall pay the amount referred to in the certificate to such Eligible account holder.

**CP-2.4.10** Once an Eligible account holder has waived his right to claim against the defaulting bank to the Board (pursuant to the Customer Acknowledgment and Waiver referred to above), no bank may deny the rights of the Board to recover the debt so waived by way of action against the bank in liquidation.

**CP-2.4.11** The Lead Mandated Bank must reimburse the Islamic Fund for any excess monies it has received during the mandate period.

**CP-2.4.12** The liquidator of the defaulting bank must, in making any payments to Eligible account holders thereof in liquidation of such bank, be responsible for ensuring that Eligible account holders shall not receive any payments in liquidation for any amount that constitutes a duplicate reimbursement that they have been compensated in accordance with the terms of the Regulation.





<b>MODULE</b>	<b>CP: Compensation</b>
<b>CHAPTER</b>	<b>CP 2: Deposits and Unrestricted Investment Accounts Protection Scheme</b>

## **CP-2.5 Disclosure of Scheme's Applicability**

### **CP-2.5.1**

All advertisements or other promotional publications issued by Islamic retail bank licensees in the Kingdom which contain an invitation to make deposits and unrestricted investment account with such banks and refer, directly or indirectly, to the Regulation Protecting Deposits and Unrestricted Investment Accounts hereunder, shall contain the following statement:

“Deposits and unrestricted investment accounts held with [name of Islamic retail bank licensee] in the Kingdom are covered by the Regulation Protecting Deposits and Unrestricted Investment Accounts issued by the Central Bank of Bahrain in accordance with Resolution No.(34) of 2010.”



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## CP-2.6 Other Provisions

### CP-2.6.1

Save as otherwise set out above, nothing in this Module shall affect the rights of Eligible account holders of a defaulting bank to claim the remaining proportion of their total claims as creditors in the liquidation of the defaulting bank, regardless of the basis on which such claim is made.

### CP-2.6.2

The provisions of Article 119 of the CBB Law relating to confidential information shall apply to all matters discussed, decisions reached and records kept by the Board in accordance with the terms of Regulation.

### CP-2.6.3

The Board is entitled to make subsidiary rules for the proper and regular enforcement of the Regulation and must be empowered to hear any dispute in relation to the application of the Regulation, without prejudicing the right of the person concerned to take judicial proceedings.

### CP-2.6.4

The Regulation does not apply retrospectively to banks operating in the Kingdom which are already under administration or are being liquidated prior to the effective date of the Regulation.