

# Compensation

## Compensation

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# Chapter INTRO

## INTRO 1



INTRO 1 Foreword

INTRO

**(This Foreword to the Compensation sourcebook does not form part of COMP.)**

The *Act* requires the *FCA* and the *PRA* to make rules establishing a scheme for compensating consumers in cases where: (i) *relevant persons* are unable, or likely to be unable, to satisfy claims against them; or (ii) persons who have assumed responsibility for liabilities arising from acts or omissions of authorised *firms* ("successors") are unable, or likely to be unable, to satisfy claims against the successors that are based on those acts or omissions. The body established to operate and administer the compensation scheme is the *Financial Services Compensation Scheme Limited (FSCS)*. The *PRA's* compensation rules deal with claims for deposits and under contracts of insurance and the *FCA's* compensation *rules* deal with other types of claim.

By making rules that allow the *FSCS* to pay compensation to retail consumers and small businesses, and focusing protection on those who need it most, the compensation scheme rules form an important part of the toolkit the *FCA* will use to meet its statutory objectives. This module of the *FCA Handbook* contains the rules and guidance that allow the *FSCS* to pay claims for compensation when an authorised person or, where applicable, a successor, is unable or likely to be unable to meet claims against it. The rules specify who is eligible to receive compensation and in what circumstances, how much compensation can be paid to a claimant; and how the scheme will be funded. The compensation rules are of interest to consumers. The rules apply to the *FSCS*, authorised firms and successors.

INTRO

The Sourcebook is divided into the following Chapters covering all aspects of the scheme:

INTRO

Chapter 1: Introduction and Overview

This chapter provides an introduction to the *FSCS* rules and a table of question and answers that may be of interest to consumers.

INTRO

Chapter 2: The *FSCS*

This chapter gives the *FSCS* the duty to administer the compensation scheme. It also sets out the general conditions the *FSCS* must follow when administering the scheme, such as having regard to the efficient and economic use of resources, the requirement to publish an Annual Report, and the duty to ensure consumers are informed about how they can make a claim. The rules in this chapter also require the *FSCS* to have in place procedures for dealing with complaints.

INTRO	<p>Chapter 3 The qualifying conditions for paying compensation</p> <p>This chapter sets out the main qualifying conditions that must be satisfied before the FSCS can pay compensation to claimants. These are that a claimant is eligible to claim; the activity that gave rise to the loss is protected by the scheme; the firm against which the claim is being made is protected by the scheme; and that the claimant has assigned his rights to the scheme. Chapters 4 to 7 expand on the general conditions described in Chapter 3.</p>
INTRO	<p>Chapter 4 Eligible claimants</p> <p>This chapter specifies who is eligible to receive compensation provided by the FSCS.</p>
INTRO	<p>Chapter 5 What is a protected claim?</p> <p>This chapter specifies the activities that are protected by the FSCS.</p>
INTRO	<p>Chapter 6 Relevant persons and successors in default</p> <p>This chapter specifies the circumstances when a firm is in default, that is, when a firm is to be taken as being unable or likely to be unable to meet claims against it. The FSCS can only pay compensation if the circumstances specified in Chapter 6 are met.</p>
INTRO	<p>Chapter 7 Assignment of rights</p> <p>This chapter enables the FSCS to make an offer of compensation conditional on the claimant assigning to it their rights to claim against the failed firm. If the FSCS recovers from the firm a greater sum than it has paid to the claimant, it must pay the balance to the claimant.</p>
INTRO	<p>Chapter 8 Rejection of application and withdrawal of offer</p> <p>This chapter allows the FSCS to reject an application for compensation or withdraw an offer of compensation in specified circumstances.</p>
INTRO	<p>Chapter 9 Time limits on payment and postponing payment</p> <p>This chapter requires the FSCS to pay a claim for compensation within a specified time unless specified conditions apply.</p>
INTRO	<p>Chapter 10 Limits on the amount of compensation payable</p> <p>This chapter specifies the maximum amount of compensation the FSCS can pay to a claimant.</p>
INTRO	<p>Chapter 11 Payment of compensation</p> <p>This chapter specifies to whom the FSCS may pay compensation. In certain circumstances compensation may be paid to a person other than the claimant.</p>

INTRO	<p>Chapter 12 Calculating compensation</p> <p>This chapter specifies how the FSCS will calculate the amount of compensation it can pay to a claimant.</p>
INTRO	<p>Chapter 13 Funding</p> <p>Chapter 13 relating to the funding of the FSCS has now been deleted. The funding provisions for the FSCS are now contained in FEES 6 instead and allow the FSCS to make levies on authorised firms to fund the operation of the scheme or to pay compensation. FEES 6 specifies how FSCS can make levies, how costs are to be allocated, the maximum the FSCS can levy in any particular period of time, and how sums recovered from failed firms are to be treated.</p>
INTRO	<p>INTRO Appendix 1: FCA rules in connection with the LCF Compensation Scheme</p>



# Chapter 1

## Introduction and Overview



1.1 Application, Introduction, and Purpose

Application

1.1.1 G This chapter is relevant to:

- (1) the *FSCS*;
- (2) *eligible claimants*;
- (3) *firms*; and
- (4) *successors*.

1.1.2 G This sourcebook is principally relevant to the *FSCS*. It sets out the circumstances in which compensation may be paid, to whom compensation may be paid, and on whom the *FSCS* can impose levies to meet the costs of paying compensation (see in particular *COMP 3*, *4*, and *FEES 6*). It also describes how the *FSCS* is to calculate compensation in particular cases (see *COMP 12*).

1.1.3 G Claimants and their advisers will be particularly interested in the sections of this sourcebook which deal with eligibility for claiming compensation, the way that the *FSCS* calculates compensation, and how they can make a claim. For convenience, the relevant parts of this sourcebook are highlighted in a list of questions and answers in *COMP 1.3.3 G*.

1.1.4 G *Firms* will be particularly interested in *FEES 6*, which deals with levies, and *COMP 1.6.1R*, which requires *firms* to deal with the *FSCS* in an open, cooperative and timely way.

Introduction

1.1.5 G The *FSA* established the Financial Services Compensation Scheme Limited, a company limited by guarantee (*FSCS*). The *FSCS* exercises the functions that are conferred on the scheme manager by Part XV of the *Act*, dealing with compensation.

1.1.6 G The *FCA* and *PRA* are also required, under section 213 of the *Act* (The compensation scheme), to make *rules* establishing a compensation scheme. The *FCA's rules* are set out in the remaining chapters of this sourcebook, and are directed to the *FSCS*, claimants and potential claimants, and *firms*. The *PRA's rules* dealing with *claims for deposits* and under *contracts of insurance* are set out in the *PRA Rulebook*.

	Purpose
1.1.7	<p><b>G</b> The <i>FSCS</i> will only pay <i>claims</i> if a <i>firm</i> or a <i>successor</i> is unable or likely to be unable to meet <i>claims</i> against it because of its financial circumstances. If a <i>firm</i> (or, where applicable, a <i>successor</i>) is still trading and has sufficient financial resources to satisfy a <i>claim</i>, the <i>firm</i> (or, where applicable, the <i>successor</i>) will be expected to meet the <i>claim</i> itself. This can, for example, be an amount the <i>firm</i> agrees with the claimant, or the amount of an <i>Ombudsman</i> award from the <i>Financial Ombudsman Service</i>.</p>
1.1.8	<p><b>G</b> ■ <b>COMP 1</b> consists of <i>guidance</i> which is aimed at giving an overview of how this sourcebook works. The provisions of ■ <b>COMP 2</b> to ■ <b>COMP 12A</b> cover who is eligible, the amount of compensation and how it might be paid.</p>
1.1.9	<p><b>G</b> [deleted]</p>
1.1.9A	<p><b>G</b> This sourcebook is one of the means by which the <i>FCA</i> will meet its <i>statutory objectives</i> of securing an appropriate degree of protection for <i>consumers</i> and protecting and enhancing the integrity of the <i>UK financial system</i>.</p>
1.1.9B	<p><b>G</b> [deleted]</p>
1.1.10	<p><b>G</b> [deleted]</p>
1.1.10A	<p><b>G</b> By making <i>rules</i> that allow the <i>FSCS</i> to provide compensation at a level appropriate for the protection of retail <i>consumers</i> and <i>small businesses</i>, the <i>FCA</i> enables <i>consumers</i> to participate in the financial markets with the confidence that they will be protected, at least in part, should the <i>relevant person</i> with whom they are dealing, or a <i>successor</i>, be unable to satisfy <i>claims</i> against it.</p>
1.1.10B	<p><b>G</b> [deleted]</p>

1.2 The FSCS

- 1.2.1

G

While this sourcebook deals with the main powers and duties of the *FSCS*, it does not provide the complete picture. Other aspects of the operation of the *FSCS* are dealt with through the powers of the Financial Services Compensation Scheme Limited under company law (such as the power to borrow, to take on premises, etc.).
- 1.2.2

G

(1) [deleted]

(2) [deleted]
- 1.2.2A

G

(1) In addition, the *Act* itself confers certain powers upon the *FSCS*, such as a power under section 219 of the *Act* (Scheme Manager's powers to require information) to require *persons* to provide information. These powers are not, therefore, covered by this sourcebook.

(2) Of specific relevance to the way in which the *FSCS* fulfils its responsibilities is the relationship between the *FSCS* and the *FCA*. This is covered in a Memorandum of Understanding which can be found on the *FCA* website <http://www.fca.org.uk> .
- 1.2.2B

G

[deleted]

## 1.3 Claimants

**1.3.1** **G** The *FSCS* provides information to claimants and potential claimants about the way the *FSCS* works and the procedures that need to be followed when making a *claim*. The *FSCS* can be contacted at Financial Services Compensation Scheme, 10th Floor, Beaufort House, 15 St Botolph Street, London EC3A 7QU, or by telephone or fax (Tel: 0800 678 1100 or Fax: 020 7741 4100).

**1.3.2** **G** Information about the operation of the *FSCS* and how to claim is also available from the *FSCS* website ([www.fscs.org.uk](http://www.fscs.org.uk)).

**1.3.3** **G** **Areas of particular interest to claimants (see COMP 1.1.3G).**

This Table belongs to ■ COMP 1.1.3 G.

<b>Q1</b>	<b>What do I need to do in order to receive compensation?</b>		
<b>A1</b>	In order to receive compensation:		
	(-1)	If your claim is for a deposit or under a contract of insurance, see the <i>PRA's</i> Depositor Protection or Policyholder Protection rules;	
	(1)	you must be an <i>eligible claimant</i> ;	COMP 4.2
	(2)	you must have a <i>protected claim</i> ;	COMP 5.2
	(3)	you must be claiming against a <i>relevant person</i> or a <i>successor</i> ;	COMP 6.2.1 R
	(4)	where the <i>claim</i> is against a <i>relevant person</i> , the <i>relevant person</i> must be default; or where the <i>claim</i> is against a <i>successor</i> , the <i>successor</i> must be <i>in default</i> .	COMP 6.3; COMP 6.3A
	In addition, if the <i>FSCS</i> requires you to do so, you must assign your legal rights in the claim to the <i>FSCS</i> .		COMP 7.2
	And you must bring your claim to the <i>FSCS</i> within a set time (normally within six years of the date on which your claim against the <i>relevant person</i> occurred).		COMP 8.2.3 R - COMP 8.2.5 R
	It is possible, in certain circumstances, for someone else to make a <i>claim</i> on your behalf.		COMP 3.2.2 R
<b>Q2</b>	<b>How much compensation will I be offered?</b>		
	This depends on whether your <i>protected claim</i>		

A2	is:		
	(1)	[deleted]	
	(2)	[deleted]	
	(3)	a <i>claim</i> in connection with <i>protected investment business</i> ; or	COMP 5.5
	(4)	a <i>claim</i> in connection with <i>protected home finance mediation</i> ; or	COMP 5.6
	(5)	a <i>claim</i> in connection with <i>protected non-investment insurance distribution</i> ; or	COMP 5.7
	(6)	a <i>claim</i> in connection with <i>protected debt management business</i> ; or	COMP 5.8
	(7)	a <i>claim</i> in connection with <i>protected funeral plan business</i> .	COMP 5.9
	Different limits apply to different types of <i>claim</i> .		COMP 10.2.3 R
Q3	How will the FSCS calculate the compensation that is offered to me?		
A3	Again, this will depend on whether your <i>protected claim</i> is:		
	(1)	[deleted]	
	(2)	[deleted]	
	(3)	a <i>claim</i> in connection with <i>protected investment business</i> ; or	COMP 12.2.1 R, COMP 12.3.5 R and COMP 12.4.2 R
	(4)	a <i>claim</i> in connection with <i>protected home finance mediation</i> ; or	COMP 12.4.17 R
	(5)	a <i>claim</i> in connection with <i>protected non-investment insurance distribution</i> ; or	COMP 12.4.20 R
	(6)	a <i>claim</i> in connection with <i>protected debt management business</i> ; or	COMP 12.4.21AR
	(7)	a <i>claim</i> in connection with <i>protected funeral plan business</i> .	COMP 12.4.21BR
	Certain types of protected investment business claim require the <i>FSCS</i> to use a particular method of calculation.		COMP 12.4.5 R
Q4	[deleted]		



1.4 EEA Firms [deleted]

1.4

## 1.5 Application to Lloyd's

### Compensation arrangements for individual members

- 1.5.7** **G** The *compensation scheme* will not compensate *members* or *former members* if *firms* are unable to satisfy claims made in connection with *regulated activities* relating to their participation in Lloyd's *syndicates*. Separate *rules* and *guidance* are therefore needed.
- 1.5.8** **R** The *Society* must maintain *byelaws* establishing appropriate and effective arrangements to compensate *individual members* and *former members* who were *individual members* if *underwriting agents* are unable, or likely to be unable, to satisfy claims by those *members* relating to *regulated activities* carried on in connection with their participation in Lloyd's *syndicates*.
- 1.5.9** **R** For the purposes of **COMP 1.5.8 R** "*individual member*" includes a *member* which is a *limited liability partnership* or a *body corporate* whose members consist only of, or of the nominees for, a single natural person or a group of connected persons.
- 1.5.10** **G** The arrangements referred to in **COMP 1.5.8 R**:
- (1) will not compensate losses arising only as a result of underwriting or investment risk to which *individual members* or *former members* who were *individual members* are or were exposed by their participation in Lloyd's *syndicates*;
  - (2) may be restricted to compensation for losses arising out of fraud, dishonesty or failure to account; and
  - (3) should cover all *regulated activities* carried on by *underwriting agents* relating to Lloyd's *syndicate* capacity and *syndicate* membership.
- 1.5.11** **G** The arrangements referred to in **COMP 1.5.8 R** should have a governance structure that is operationally independent from the *Society*, but which is nevertheless accountable to the *Society* for the proper administration of the compensation arrangements.
- 1.5.12** **R** A contravention of **COMP 1.5.8 R** does not give rise to a right of action by a *private person* under section 138D of the *Act* (Actions for damages) and that *rule* is specified under Section 138D(3) of the *Act* as a provision giving rise to no such right of action.





## 1.6 Cooperation with the FSCS

1.6.1

**R**

A *firm* must deal with the *FSCS* in an open, cooperative and timely way.



# Chapter 2

## The FSCS



## 2.1 Application and Purpose

### Application

2.1.1 **R** This chapter applies to the *FSCS*.

### Purpose

2.1.2 **G** In order to carry out its functions and put into effect the provisions set out in *COMP 3* - ■ *COMP 12A* (which deal with determining whether compensation is payable, calculating the amount of compensation that should be paid, and making levies on *firms*), the *FSCS* needs to have a variety of powers. The purpose of this chapter is to set out these powers, and the restrictions upon them.

## 2.2 Duties of the FSCS

### Administering the compensation scheme

**2.2.1** **R** The FSCS must administer the *compensation scheme* in accordance with the *rules* in this sourcebook and any other rules prescribed by law to ensure that the *compensation scheme* is administered in a manner that is procedurally fair and in accordance with the European Convention on Human Rights.

**2.2.2** **G** The FSCS may:

- (1) pay compensation to *eligible claimants* when a *relevant person* (or, where applicable, a *successor*) is unable or likely to be unable to meet *claims* against it in accordance with this sourcebook; and
- (2) make levies on *participant firms*, in accordance with ■ FEES 6 (Financial Services Compensation Scheme Funding), to enable it to pay compensation or meet the costs of discharging its functions under this sourcebook.

### Information for claimants

**2.2.3** **R** The FSCS must publish information for claimants and potential claimants on the operation of the *compensation scheme*.

### Assistance to claimants

**2.2.4** **R** The FSCS may agree to pay the reasonable costs of an *eligible claimant* bringing or continuing insolvency proceedings against a *relevant person* or, where applicable, a *successor* (whether those proceedings began before or after a determination of default), if the FSCS is satisfied that those proceedings would help it to discharge its functions under the requirements of this sourcebook.

### Annual Report

**2.2.5** **G** The FSCS must make and publish an annual report on the discharge of its functions (section 218 of the Act (Annual report)).

### Finance and resources

**2.2.6** **R** The FSCS must have regard to the need to use its resources in the most efficient and economic way in carrying out its functions under the requirements of this sourcebook.

2.2.7	R	<b>Publication of defaults</b> The <i>FSCS</i> must take appropriate steps to ensure that potential claimants are informed of how they can make a <i>claim</i> for compensation as soon as possible after a determination has been made that a <i>relevant person</i> (or, where applicable, a <i>successor</i> ) is <i>in default</i> , whether by the <i>FSCS</i> or the <i>FCA</i> .
2.2.8	R	<b>Complaints</b> The <i>FSCS</i> must put in place and publish procedures which satisfy the minimum requirements of procedural fairness and comply with the European Convention on Humans Rights for the handling of any complaints of maladministration relating to any aspect of the operation of the <i>compensation scheme</i> .
2.2.9	G	<b>Informing the FSCS</b> The <i>FCA</i> will inform the <i>FSCS</i> if it detects problems in a <i>firm</i> that is likely to give rise to the intervention of the <i>FSCS</i> .
2.2.10	R	[deleted]

## Chapter 3

# The qualifying conditions



3.1 Application and Purpose

Application

3.1.1 R This chapter applies to the *FSCS*.

3.1.2 G It is also relevant to claimants.

Purpose

3.1.3 G The purpose of this chapter is to set out in general terms the conditions that must be satisfied before the *FSCS* can make an offer of compensation or secure continuity of *funeral plan contracts*.

3.1.4 G The qualifying conditions for paying compensation are set out in greater detail in ■ COMP 4 - ■ COMP 7.



## 3.2 The qualifying conditions for paying compensation

**3.2.1** **R** The FSCS may pay compensation to an *eligible claimant*, subject to COMP 11 (Payment of compensation), if it is satisfied that:

- (1) an *eligible claimant* has made an application for compensation (or the FSCS is treating the *person* as having done so);
- (2) the claim is in respect of a *protected claim* against a *relevant person* (or, where applicable, a *successor*) who is *in default*; and
- (3) where the FSCS so requires, the claimant has assigned the whole or any part of his rights against any one or more of the *relevant person*, any third party or, where applicable, a *successor*, to the FSCS, on such terms as the FSCS thinks fit.
- (4) [deleted]

### Treating a person as having claimed

**3.2.1A** **R** The FSCS may treat *persons* who are or may be entitled to claim compensation as if they had done so.

### Claims on behalf of another person

**3.2.2** **R** The FSCS may also pay compensation (and any recovery or other amount payable by the FSCS to the claimant) to a *person* who makes a *claim* on behalf of another *person* if the FSCS is satisfied that the *person* on whose behalf the *claim* is made:

- (1) is or would have been an *eligible claimant*; and
- (2) would have been paid compensation by the FSCS had he been able to make the *claim* himself, or to pursue his application for compensation further.

**3.2.3** **G** Examples of the circumstances covered by **COMP 3.2.2 R** are:

- (1) when personal representatives make a *claim* on behalf of the deceased;
- (2) when trustees make a *claim* on behalf of beneficiaries (for further provisions relating to *claims* by trustees, see **COMP 12A.1.1R** to **12A.1.7R**);

- (3) when the donee of an enduring power of attorney or a lasting power of attorney makes a *claim* on behalf of the donor of the power;
- (4) when the Court of Protection makes a *claim* on behalf of a *person* incapable by reason of mental disorder of managing and administering his property and affairs;
- (5) when an *eligible claimant* makes a *claim* for compensation but dies before his *claim* is determined.
- (6) in relation to a *funeral plan* claim which was bought by one *individual* to provide a funeral on the death of another *individual*, when the first *individual* makes a *claim*.

3.2.4

R

The *FSCS* may also pay compensation to a *firm*, who makes a claim in connection with *protected non-investment insurance distribution* on behalf of its customers, if the *FSCS* is satisfied that:

- (1) each *customer* has borne a *shortfall* in *client money* held by the *firm* caused by a *secondary pooling event* arising out of the *failure* of a broker or *settlement agent* which is a *relevant person* in default;
- (2) the *customers* in respect of which compensation is to be paid satisfy the conditions set out in ■ COMP 3.2.2 R (1);
- (3) the *customers* do not have a *claim* against the *relevant person* directly, nor a claim against the *firm*, in respect of the same loss;
- (4) the *customers* would have been paid compensation by *FSCS* if the *customers* had a *claim* for their share of the *shortfall*, and if the *firm* were the *relevant person*; and
- (5) the *firm* has agreed, on such terms as the *FSCS* thinks fit, to pay, or credit the accounts of, without deduction, each relevant *customer* in (1), that part of the compensation equal to the *customer's* financial loss, subject to the limits in ■ COMP 10.2.
- (6) in relation to a *funeral plan* claim which was bought by one *individual* to provide a funeral on the death of another *individual*, when the first *individual* makes a *claim*.

Special cases

3.2.5

G

See ■ COMP 12A (Special cases) for how the *FSCS* may pay compensation in certain cases.

### 3.3 Continuity of funeral plan contracts

#### Ability to secure continuity of funeral plan contracts

##### 3.3.1

**R**

The FSCS may make arrangements to secure continuity of a *funeral plan contract* for an *eligible claimant* who has a *funeral plan contract* if:

- (1) the contract is with a *relevant person* (or, where applicable, a *successor*) that is *in default*;
- (2) it is reasonably practicable to do so;
- (3) in the opinion of the FSCS at the time it proposes to make the arrangements, it would be beneficial to the generality of *eligible claimants* covered by the proposed arrangements; and
- (4) in situations where the cost of securing continuity of *funeral plan contracts* might exceed the cost of paying compensation, any additional cost is likely to be justified by the benefits.

##### 3.3.2

**R**

When assessing the cost of paying compensation, the FSCS may have regard to the likely total cost of paying compensation arising out of the *default*, net of recoveries, not just the compensation amounts likely to be payable to particular *eligible claimants* covered by the proposed arrangements for continuity.

#### Quality of funeral under new arrangements

##### 3.3.3

**R**

In securing continuity of a *funeral plan contract*:

- (1) the FSCS must seek to secure the provision of a funeral for the *eligible claimant* under the new or continuing *funeral plan contract* on terms corresponding in all material respects (so far as it appears to the FSCS to be reasonable in the circumstances) to those which have applied under the *funeral plan contract*;
- (2) if the FSCS secures continuity of a *funeral plan contract* other than as in (1), then the FSCS must:
  - (a) give the *eligible claimant* the option of receiving compensation instead; and
  - (b) (if the claimant does not elect to receive compensation) ensure that any future premiums that the claimant is committed to paying under the contract will be reduced by an amount (if any) that the FSCS considers reasonable to reflect the change in terms.

### Measures to be taken

3.3.4

**R**

In order to secure continuity of *funeral plan contracts*, the *FSCS* may take such measures as it considers appropriate to:

- (1) secure or facilitate the transfer of the business of the *relevant person* or *successor* that is *in default* and which consists of carrying out *funeral plan contracts* or any part of that business to another *firm*; and/or
- (2) secure the issue of *funeral plan contracts* by another *firm* to *eligible claimants* in substitution for their existing contracts.

3.3.5

**R**

In making arrangements to secure continuity of *funeral plan contracts*, the *FSCS* must use its reasonable endeavours to seek the most cost-effective arrangements available.

3.3.6

**G**

For *trust arrangements* and *contracts of insurance* relating to *funeral plan contracts*, **COMP 7.7** gives the *FSCS* powers to vary existing rights or obligations, and create new rights in favour of, or obligations to, the *FSCS*. These powers may be exercised to assist in securing continuity of *funeral plan contracts*.

### Provision of funerals while seeking continuity

3.3.7

**R**

- (1) While the *FSCS* is seeking to secure continuity of *funeral plan contracts*, it may secure the provision of a funeral, which is due to be provided under any protected *funeral plan contract* of the *relevant person* (or, where applicable, a *successor*), on terms corresponding in all material respects (so far as it appears to the *FSCS* to be reasonable in the circumstances) to that contract.
- (2) The provision of a funeral is required regardless of whether the cost of securing its provision is more or less than the cost of paying compensation.
- (3) To secure the provision of a funeral, the *FSCS* may:
  - (a) make a payment to or on behalf of the estate of an *eligible claimant*, or to any other person in connection with the provision of a funeral, on such terms (including any terms requiring repayment in whole or in part) and on such conditions as it thinks fit; or
  - (b) secure that a payment is made to or on behalf of the estate of the *eligible claimant*, or to any other person in connection with the provision of a funeral, by the liquidator, administrator or provisional liquidator of the *relevant person* (or, where applicable, a *successor*), or by the trustees of any *trust arrangement* or *insurer* of any *contract of insurance* relating to the *funeral plan contract*, by giving them an indemnity covering any such payment or any class or description of such payments.

## Chapter 4

# Eligible claimants



4.1 Application and Purpose

Application

- 4.1.1 **R** This chapter applies to the *FSCS*.
- 4.1.2 **G** It is also relevant to those who may wish to bring a *claim* for compensation.

Purpose

- 4.1.3 **G** The purpose of this chapter is to set out the types of *person* who are able to claim compensation or benefit from the protection the *FSCS* is able to provide. A claimant needs to be an *eligible claimant* to satisfy *COMP* 3.2.1R(1).



4.2 Who is eligible to benefit from the protection provided by the FSCS?

4.2.1

R

An *eligible claimant* is any person who at any material time:

- (1) did not come within COMP 4.2.2 R; or
- (2) did come within COMP 4.2.2 R, but satisfied the relevant exception in COMP 4.3 or COMP 4.4.

Persons not eligible to claim unless COMP 4.3 applies (see COMP 4.2.1 R)

4.2.2

R

This table belongs to COMP 4.2.1R

(1)	<i>Firms (other than a sole trader firm; a credit union; a trustee of a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme; a firm carrying on the regulated activity of operating, or winding up, a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme; or a small business; in each case, whose claim arises out of a regulated activity for which they do not have a permission)</i>
(2)	<i>Overseas financial services institutions</i>
(3)	<i>Collective investment schemes, and anyone who is the operator or depositary of such a scheme.</i>
(4)	<b>Pension and retirement funds, and anyone who is a trustee of such a fund. However, this exclusion does not apply to:</b>
	(a) <b>a trustee of a personal pension scheme or a stakeholder pension scheme (which is not an occupational pension scheme); or</b>
	(b) <b>a trustee of an occupational pension scheme insofar as members' benefits are money-purchase benefits; or</b>
	(c) <b>insofar as members' benefits are not money-purchase benefits, a trustee of an occupational pension scheme of an employer which is not a large company, large partnership or large mutual association.</b>
(5)	<b>Supranational institutions, governments, and central administrative authorities</b>
(6)	<b>Provincial, regional, local and municipal authorities</b>
(7)	<b>Directors of the relevant person in default or, in respect of a claim against a successor in default, directors of any successor or directors of the relevant person. However, this exclusion does not apply if:</b>

	(a)	(i)	the relevant person in default is a mutual association which is not a large mutual association and the directors do not receive a salary or other remuneration for services performed by them for the relevant person in default; or
		(ii)	in respect of a claim against a successor in default, the relevant person or a successor, to whichever the directorship relates, is a mutual association which is not a large mutual association and the directors do not receive a salary or other remuneration for services performed by them for the relevant person or a successor, as applicable; or
	(b)	(i)	the relevant person in default is a credit union; or
		(ii)	in respect of a claim against a successor in default, the relevant person or a successor, to whichever the directorship relates, is a credit union.
(8)	[deleted]		
(9)	Bodies corporate in the same group as the relevant person in default or, in respect of a claim against a successor in default, bodies corporate in the same group as a successor or the relevant person, as applicable, unless that body corporate is:		
	(a)	a trustee of a stakeholder pension scheme (which is not an occupational pension scheme) or a personal pension scheme (but in each case if the trustee is a firm it will only be an eligible claimant if its claim arises out of a regulated activity for which it does not have a permission); or	
	(aa)	a trustee of:	
		(i)	an occupational pension scheme in relation to members' benefits which are money-purchase benefits; or
		(ii)	(unless (i) applies) an occupational pension scheme of an employer which is not a large company, large partnership or large mutual association; or
	(b)	carrying on the regulated activity of operating or winding up a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme.	
(10)	[deleted]		
(11)	[deleted]		



(12)	Persons who, in the opinion of the FSCS, are responsible for, or have contributed to, the relevant person's (or, where applicable, a successor's) default
(13)	Large companies
(14)	Large partnerships
(15)	Persons whose claim arises from transactions in connection with which they have been convicted of an offence of money laundering.
(16)	[deleted]
(17)	Where the claim is in relation to protected non-investment insurance distribution, bodies corporate, partnerships, mutual associations and unincorporated associations which are not small businesses.
(18)	Alternative investment funds, and anyone who is the AIFM or depositary of an alternative investment fund.
(19)	Large mutual associations
(20)	Where the claim is in relation to protected debt management business, any person other than a natural person.
(21)	In relation to a claim in connection with funeral plan provision activity, a customer where the FSCS consider that the claim could be made by a different covered individual who is an eligible claimant.

4.2.3

R [deleted]



4.3 Exceptions: Circumstances where a person coming within **COMP** 4.2.2R may receive compensation

4.3.1 R [deleted]

4.3.2 R [deleted]

4.3.3 R [deleted]

4.3.4 R [deleted]

4.3.5 R [deleted]

4.3.6 R **Liability subject to compulsory insurance**.....  
A person who comes within *COMP* 4.2.2R is eligible to claim compensation in respect of a *liability subject to compulsory insurance* if the *claim* is in connection with *protected non-investment insurance distribution*.

4.3.7	<div data-bbox="341 280 373 313">G</div> <div data-bbox="395 230 1382 275">Protected home finance mediation</div> <div data-bbox="395 280 1382 347">There are no exceptions to <i>COMP</i> 4.2.2R for <i>claims</i> made in connection with <i>protected home finance mediation</i>.</div>
4.3.8	<div data-bbox="341 459 373 492">R</div> <div data-bbox="395 409 1382 454">Eligibility to claim in specified circumstances</div> <div data-bbox="395 459 1382 526">The <i>FSCS</i> may treat a <i>person</i> who comes within category (7) or (12) of <b>COMP</b> 4.2.2 R as eligible to claim compensation where:</div> <div data-bbox="443 548 1382 795"><div data-bbox="443 548 1382 660">(1) this is desirable to achieve the efficient performance of any of its functions, including without limitation; to achieve the efficient payment of compensation; and</div><div data-bbox="443 683 1382 795">(2) treating these <i>persons</i> as eligible to claim compensation would, in the opinion of the <i>FSCS</i>, be beneficial to the generality of <i>eligible claimants</i> who will be affected by the action in (1).</div></div>
4.3.9	<div data-bbox="341 884 373 918">R</div> <div data-bbox="395 835 1382 880">Protected investment business</div> <div data-bbox="395 884 1382 996">A <i>person</i> is eligible to claim compensation for claims made in connection with <i>protected investment business</i> if, at the date at which the <i>relevant person</i> (or, where applicable, a <i>successor</i>) is deemed to be in default, he:</div> <div data-bbox="443 1019 1382 1220"><div data-bbox="443 1019 1382 1153">(1) came within category (14) of <b>COMP</b> 4.2.2 R and he does not exceed the limits for a <i>body corporate</i> which qualifies as a small company under section 247 of the Companies Act 1985 or section 382 of the Companies Act 2006 as applicable; or</div><div data-bbox="443 1176 1382 1220">(2) came within category (19) of <b>COMP</b> 4.2.2 R.</div></div>



**4.4**      **Exceptions: Relevant general insurance contracts: mesothelioma claims**

		<b>Application</b> .....
4.4.1	<b>R</b>	[deleted]
		<b>Claims for contribution by responsible persons</b> .....
4.4.2	<b>R</b>	[deleted]
4.4.3	<b>R</b>	[deleted]
4.4.4	<b>R</b>	[deleted]
		<b>Limits to amounts payable for contribution claims</b> .....
4.4.5	<b>R</b>	[deleted]

# Chapter 5

## Protected claims



5.1 Application and Purpose

Application

5.1.1 R This chapter applies to the *FSCS*.

5.1.2 G It is also relevant to claimants.

Purpose

5.1.3 G The purpose of this chapter is to set out the various categories of *claim* for which compensation may be payable.

## 5.2 What is a protected claim?

### 5.2.1

**R** A *protected claim* is:

- (1) [deleted]
- (2) [deleted]
- (3) a *claim* in connection with *protected investment business* (see ■ COMP 5.5); or
- (4) a *claim* in connection with *protected home finance mediation* (see ■ COMP 5.6); or
- (5) a *claim* in connection with *protected non-investment insurance distribution* (see ■ COMP 5.7); or
- (6) a *claim* in connection with *protected debt management business* (see ■ COMP 5.8); or
- (7) a *claim* in connection with *protected funeral plan business* (see ■ COMP 5.9).

### 5.2.2

**G** () [deleted]

### Claims in respect of Law Society members

### 5.2.3

**R** Notwithstanding ■ COMP 5.2.1 R and paragraph (1)(d) of the definition of *participant firm*, where the *relevant person* is in default:

- (1) is an *authorised professional firm* that is subject to the rules of the Law Society (England and Wales) or the Law Society of Scotland; and
- (2) with respect to its *regulated activities*, does not participate in the relevant society's compensation scheme:

a *claim* with respect to that *person* is only a *protected claim* if, when the basis for the *claim* arose, that *person* did not participate in the relevant society's compensation scheme with respect to its *regulated activities*.

### Claims in respect of successors

### 5.2.4

**G** Where a claim for compensation is in respect of a *claim* against a *successor*, the following rules apply to the *relevant person* for whose liabilities the

*successor* has assumed responsibility (or to such *relevant person's* activities, as the case may be):

- (1) ■ COMP 5.5.1R;
- (2) ■ COMP 5.5.2R;
- (3) ■ COMP 5.5.3R;
- (4) ■ COMP 5.6.1R;
- (5) ■ COMP 5.6.2R;
- (6) ■ COMP 5.7.2R;
- COMP 5.8.1R; and
- (8) ■ COMP 5.9.1R and ■ COMP 5.9.2R.





5.5 Protected investment business

5.5.1

R

Protected investment business is:

- (1) *designated investment business* carried on by the *relevant person* with, or for the benefit of, the claimant (so long as that claimant has a *claim*), or as agent on the claimant's behalf;
- (2) the activities of the manager or *trustee* of an *AUT*, provided that the *claim* is made by a *holder*;
- (3) the activities of the *ACD* or *depository* of an *ICVC*, provided that the *claim* is made by a *holder*;
- (4) the activities of the *authorised contractual scheme manager* or *depository* of an *ACS*, provided that the *claim* is made by a *holder*;
- (5) [deleted]
- (5A) the activities by a *recognised investment exchange* of operating a *multilateral trading facility* or operating an *organised trading facility*,
- (6) the *intermediation of structured deposits*,

provided that the territorial scope condition in COMP 5.5.2 R is satisfied and, for a *firm* acting as the manager or *depository* of a *fund*, one of the conditions in COMP 5.5.3 R is satisfied.

**Territorial scope condition**

5.5.2

R

The territorial scope condition is that the *protected investment business* was carried on from:

- (1) an establishment of the *relevant person* in the *United Kingdom*; or  
[deleted]
- (3) [deleted]  
[deleted]
- (5) [deleted]
- (6) an establishment in an *EEA State* of the *relevant person*, if it is a *TP firm* (other than a *supervised run-off firm*) that is:

- (a) *managing a UK UCITS*; or
- (b) *managing an AIF that is an authorised fund*.

### Managers and depositaries of funds

5.5.3

R

The conditions referred to in ■ COMP 5.5.1 R for a manager or *depositary* of a fund are:

- (1) for the activities of *managing an AIF, managing a UK UCITS or establishing, operating or winding up a collective investment scheme*, the *claim* is in respect of an investment in:
  - (a) *an authorised fund*; or
  - (b) any other *fund* which has its registered office or head office in the *UK* or is otherwise domiciled in the *UK* unless it is an *AIF* that is a *body corporate* and not a *collective investment scheme*;
- (2) where a *firm* is acting as *depositary* of a *fund*, the *claim* is in respect of their activities for:
  - (a) *an authorised fund*; or
  - (b) a *charity AIF* unless it is a *body corporate* that is not a *collective investment scheme*.

### Advising without a personal recommendation

5.5.4

R

The FSCS must treat a *claim* relating to advice in relation to a *designated investment* that falls outside article 53(1) of the *Regulated Activities Order* by virtue of article 53(1A) of that Order as being ‘in connection with *protected investment business*’ for the purposes of ■ COMP 5.2.1R(3) where the *relevant person* giving the advice, at the time the act or omission giving rise to the *claim* took place:

- (1) had, or required, *permission* to carry on; or
  - (2) (in the case of an *appointed representative*) was exempt from the *general prohibition* in respect of,
- an activity that was *designated investment business*.

## 5.6 Protected home finance mediation

- 5.6.1** **R** Protected *home finance mediation* is:
- (1) *advising on a home finance transaction; or*
  - (2) *arranging (bringing about) a home finance transaction; or*
  - (3) *making arrangements with a view to a home finance transaction; or*
  - (4) *agreeing to carry on a regulated activity in (1) to (3); or*
  - (5) *the activities of a home finance provider which would be arranging but for article 28A of the Regulated Activities Order (Arranging contracts or plans to which the arranger is a party);*
- provided that the condition in **COMP 5.6.2 R** is satisfied.
- 5.6.2** **R** **COMP 5.6.1 R** applies only if the *protected home finance mediation* was carried on by a *relevant person* with a customer who was a resident in the *United Kingdom* at the time the *protected home finance mediation* was carried on.
- 5.6.3** **R** This section does not apply in respect of a *regulated mortgage contract* which is:
- (1) *a legacy CCA mortgage contract; or*
  - (2) *a CBTL credit agreement.*



5.7 Protected non-investment insurance distribution

- 5.7.1

R

Protected non-investment insurance distribution is an insurance distribution activity where the investment concerned is a relevant general insurance contract or a pure protection contract but which is not a long-term care insurance contract or a reinsurance contract, provided that the conditions in COMP 5.7.2 R are satisfied.
- 5.7.2

R

COMP 5.7.1 R only applies if the conditions in (1) and (2) are satisfied:

(1) the protected non-investment insurance distribution was carried on from an establishment of the relevant person in the United Kingdom; and

(2) the claimant making the claim (or where COMP 3.2.4 R applies, the customer on behalf of whom a firm makes a claim) dealt initially, with a view to entering into a relevant general insurance contract or a pure protection contract but not a long-term care insurance contract or a reinsurance contract, with an intermediary that was established in the United Kingdom.
- 5.7.3

G

The FSCS will not cover a claim against an intermediary or a successor of an intermediary that meets the criteria of COMP 5.7.2R(2) where the claimant was introduced to that intermediary by an intermediary that does not meet the criteria of COMP 5.7.2R(2).
- 5.7.4

G

The FSCS will not cover a claim in respect of an intermediary that is not a relevant person, for example a retailer selling extended warranties that are connected contracts. However, COMP 5.7.2 R has the effect that a claim in respect of a relevant person further up the chain carrying on protected non-investment insurance distribution in accordance with COMP 5.7.2R(1) may be covered by the FSCS if the claimant dealt initially with a UK intermediary that is not a relevant person.

**Advising without a personal recommendation**

5.7.5

**R**

The FSCS must treat a *claim* relating to advice on a *relevant general insurance contract* or a *pure protection contract* (which is not a *long-term insurance contract* or a *reinsurance contract*) that falls outside article 53(1) of the *Regulated Activities Order* by virtue of article 53(1A) of that Order as being 'in connection with *protected non-investment insurance business*' for the purposes of ■ COMP 5.2.1R(5) where the *relevant person* giving the advice, at the time the act or omission giving rise to the *claim* took place:

- (1) had, or required, *permission* to carry on; or
- (2) (in the case of an *appointed representative*) was exempt from the *general prohibition* in respect of,

an activity that was *non-investment insurance business*.

5



5.8 Protected debt management business

5.8.1

R

*Protected debt management business is debt management activity carried out by a CASS debt management firm from an establishment maintained by it in the United Kingdom, but only in so far as the claim relates to a shortfall in client money.*



5.9 Protected funeral plan business

5.9.1 **R** *Protected funeral plan business is a regulated funeral plan activity carried on by a relevant person from an establishment maintained by the relevant person (or its appointed representative) in the United Kingdom.*

5.9.2 **R** ■ COMP 5.9.1R does not apply in relation to a *claim* against an intermediary (or where applicable, their *successor*) where the *eligible claimant* did not deal initially with an intermediary that was established in the *United Kingdom*.

**Advising without a personal recommendation**

5.9.3 **R** The FSCS must treat a *claim* relating to advice in relation to a *funeral plan contract* that falls outside article 53(1) of the *Regulated Activities Order* by virtue of article 53(1A) of that Order as being ‘in connection with *protected funeral plan business*’ for the purposes of ■ COMP 5.2.1R(7) where the *relevant person* giving the advice, at the time the act or omission giving rise to the *claim* took place:

- (1) had, or required, *permission* to carry on; or
- (2) (in the case of an *appointed representative*) was exempt from the *general prohibition* in respect of,

an activity that was *protected funeral plan business*.





## Chapter 6

# Relevant persons and successors in default



6.1 Application and Purpose

Application

6.1.1 R This chapter applies to the FSCS.

6.1.2 G It is also relevant to claimants.

Purpose

6.1.3 G The purpose of this chapter is to specify the types of *person* against whom a claimant must have a *claim* in order to be eligible for compensation, and when those *persons* are '*in default*'. Generally, this occurs when they are insolvent or unable to meet their liabilities to claimants.

6.1.4 G To be eligible for compensation a claimant's claim must be against a *relevant person* (or, where applicable, a *successor*) *in default*: see ■ COMP 3.2.1 R (2).

## 6.2 Who is a relevant person?

- 6.2.1** **R** A *relevant person* is a person who was, at the time the act or omission giving rise to the *claim* against it took place:
- (1) a *participant firm*; or
  - (2) an *appointed representative* of a *participant firm*.
- 6.2.2** **G** [deleted]
- 6.2.2A** **R** The *FSCS* may pay compensation in respect of the activities of a *relevant person*:
- (1) (if it was a *firm*) whether or not it was acting within the scope of its *permission*;
  - (2) (if it was an *appointed representative*) whether or not it was acting within the scope of the business for which its *principal* had accepted responsibility;
  - (3) (if it was a *recognised investment exchange*) whether or not it was acting in accordance with any *recognition requirements* resulting from section 286 of the Act and relating to the *regulated activity* of operating a *multilateral trading facility* or operating an *organised trading facility*.
- [Note: sections 39(3) and 213(3)(a) of the Act]
- 6.2.3** **G** A *pre-IP completion day incoming EEA firm* may be a *participant firm* in respect of acts or omissions before *IP completion day* that give rise to a *claim* against it.
- 6.2.4** **G** A *TP firm* to which regulation 8 or 11 of the *EU Exit Passport Regulations* applies, that is not to be regarded as a *relevant person* under section 213(9A) of the Act (as inserted by regulation 24 of the *EU Exit Passport Regulations*) is not a *participant firm*. A *TP firm* to which regulation 28 or 34 of the *EU Exit Passport Regulations* applies, that is not to be regarded as a *relevant person* under section 213(9A) of the Act (as inserted by regulation 70 of the *EU Exit Passport Regulations*) is not a *participant firm*. For the purposes of the *FCA's compensation rules*, this means that most (but not all) *TP firms* operating in the *UK* without an *establishment* are not *participant firms*.

#### 6.2.5

**G**

Schedule 6A to the Act sets out a procedure to enable the FCA to cancel or vary the *Part 4A permission* of a *person* who, it appears to the FCA, is not carrying on the *regulated activity* to which the *Part 4A permission* relates. In some cases, this may result in the *person* no longer being a *relevant person* following cancellation of all their *Part 4A permissions*. Paragraph 5 of Schedule 6A to the Act sets out a procedure for the subsequent annulment of the decision to cancel or vary the *person's Part 4A permission* in specified circumstances where the FCA is satisfied that it is just and reasonable to do so. Where the FCA grants an application for annulment, either with conditions or unconditionally, paragraph 6 of Schedule 6A to the Act sets out its effect, which includes that the cancellation or variation of the *Part 4A permission* is treated as if it had never taken place. As a result of the effect of the annulment, the *person* may therefore be a *relevant person* for the purposes of any *claims* which arise during the period in which the *person's Part 4A permission* was cancelled or varied.



## 6.3 When is a relevant person in default?

- 6.3.1** **R** A *relevant person* is *in default* if:
- (1) (except in relation to an *ICD claim*) the *FSCS* has determined it to be *in default* under ■ COMP 6.3.2 R, ■ COMP 6.3.3 R or ■ COMP 6.3.4 R; or
  - (2) (in relation to an *ICD claim*):
    - (a) the *FCA* has determined it to be *in default* under ■ COMP 6.3.2 R; or
    - (b) a judicial authority has made a ruling that had the effect of suspending the ability of *eligible claimants* to bring *claims* against the *participant firm*, if that is earlier than (a); and
- if a *relevant person* is *in default* in relation to an *ICD claim* it shall be deemed to be *in default* in relation to any other type of *protected claim*.
- 6.3.1A** **G** [Note: article 2(2) of the *Investor Compensation Directive*]
- 6.3.2** **R** The *FSCS* (or, where ■ COMP 6.3.1 R(2)(a) applies, the *FCA*) may determine a *relevant person* to be *in default* when it is, in the opinion of the *FSCS* (or the *FCA*):
- (1) unable to satisfy *protected claims* against it; or
  - (2) likely to be unable to satisfy *protected claims* against it.
- 6.3.3** **R** The *FSCS* may determine a *relevant person* to be *in default* if it is satisfied that a *protected claim* exists (other than an *ICD claim*), and the *relevant person* is the subject of one or more of the following proceedings in the *United Kingdom* (or of equivalent or similar proceedings in another jurisdiction):
- (1) the passing of a resolution for a creditors' voluntary winding up;
  - (2) a determination by the *FCA* or the *PRA* that the *relevant person* appears unable to meet *claims* against it and has no early prospect of being able to do so;
  - (3) the appointment of a liquidator or administrator, or provisional liquidator or interim manager;

		<ul style="list-style-type: none"> <li>(4) the making of an order by a court of competent jurisdiction for the winding up of a company, the dissolution of a partnership, the administration of a company or partnership, or the bankruptcy of an individual;</li> <li>(5) the approval of a company voluntary arrangement, a partnership voluntary arrangement, or of an individual voluntary arrangement;</li> <li>(6) a moratorium under Part A1 of the Insolvency Act 1986 being in force.</li> </ul>
6.3.4	<b>R</b>	<p>The <i>FSCS</i> may determine a <i>relevant person</i> to be <i>in default</i> if it is satisfied that a <i>protected claim</i> exists (other than an <i>ICD claim</i>), and:</p> <ul style="list-style-type: none"> <li>(1) the <i>FSCS</i> is satisfied that the <i>relevant person</i> cannot be contacted at its last place of business and that reasonable steps have been taken to establish a forwarding or current address, but without success; and</li> <li>(2) there appears to the <i>FSCS</i> to be no evidence that the <i>relevant person</i> will be able to meet <i>claims</i> made against it.</li> </ul>
6.3.4A	<b>G</b>	For the avoidance of doubt, ■ COMP 6.3.3R and ■ COMP 6.3.4R do not limit ■ COMP 6.3.2R.
6.3.5	<b>R</b>	[deleted]
6.3.6	<b>R</b>	[deleted]
6.3.7	<b>R</b>	[deleted]
		<b>Claims arising under COMP 3.2.4 R</b>
6.3.8	<b>R</b>	For the purposes of ■ COMP 6.3 a claim made by a <i>firm</i> under ■ COMP 3.2.4 R is to be treated as if it were a <i>protected claim</i> against the <i>relevant person</i> .
		<b>Scheme manager's power to require information</b>
6.3.9	<b>R</b>	For the purposes of sections 219(1A)(b) , (d) and (f) of the <i>Act</i> (Scheme manager's power to require information) whether a <i>relevant person</i> is unable or likely to be unable to satisfy <i>claims</i> shall be determined by reference to whether it is <i>in default</i> .

## 6.3A When is a successor in default?

### 6.3A.1

**R**

A successor is *in default* if:

the FSCS has determined it to be *in default* under ■ COMP 6.3A.2R, ■ COMP 6.3A.3R, or ■ COMP 6.3A.4R, unless the claim is within (b); or

(in relation to an *ICD claim* against a successor that is a *MiFID investment firm*):

the FCA has determined it to be *in default* under ■ COMP 6.3A.2R; or

a judicial authority has made a ruling that had the effect of suspending the ability of *eligible claimants* to bring *claims* against the successor, if that is earlier than (i).

If a successor is *in default* in relation to an *ICD claim* within (1)(b) it is to be deemed to be *in default* in relation to any other type of *protected claim*.

### 6.3A.2

**R**

The FSCS (or, where ■ COMP 6.3A.1R(1)(b)(i) applies, the FCA) may determine a successor to be *in default* when it is, in the opinion of the FSCS (or the FCA):

- (1) unable to satisfy *protected claims* against it; or
- (2) likely to be unable to satisfy *protected claims* against it.

### 6.3A.3

**R**

The FSCS may determine a successor to be *in default* if it is satisfied that a *protected claim* exists (other than an *ICD claim* against a successor that is a *MiFID investment firm*), and the successor is the subject of one or more of the following proceedings in the *United Kingdom* (or of equivalent or similar proceedings in another jurisdiction):

- (1) the passing of a resolution for a creditors' voluntary winding up; or
- (2) a determination by the FCA or the PRA that the successor appears unable to meet *claims* against it and has no early prospect of being able to do so; or
- (3) the appointment of a liquidator or administrator, or provisional liquidator or interim manager; or
- (4) the making of an order by a court of competent jurisdiction for the winding up of a company, the dissolution of a partnership, the

administration of a company or partnership, or the bankruptcy of an individual; or

- (5) the approval of a company voluntary arrangement, a partnership voluntary arrangement, or an individual voluntary arrangement; or
- (6) a moratorium under Part A1 of the Insolvency Act 1986 being in force.

### 6.3A.4

**R**

The *FSCS* may determine that a *successor* to be *in default* if it is satisfied that a *protected claim* exists (other than an *ICD claim* against a *successor* that is an *MiFID investment firm*), and:

- (1) the *FSCS* is satisfied that the *successor* cannot be contacted at its last place of business and that reasonable steps have been taken to establish a forwarding or current address, but without success; and
- (2) there appears to the *FSCS* to be no evidence that the *successor* will be able to meet *claims* made against it.

### 6.3A.4A

**G**

For the avoidance of doubt, **COMP 6.3A.3R** and **COMP 6.3A.4R** do not limit **COMP 6.3A.2R**.

### 6.3A.5

**R**

For the purposes of sections 219(1A)(b) , (d) and (f) of the *Act* (Scheme manager's power to require information) whether a *successor* is unable or likely to be unable to satisfy *claims* is to be determined by reference to whether it is *in default*.



## Chapter 7

# Assignment, subrogation, variation or creation of rights



7.1 Application

Application and Purpose

7.1.1 R This chapter applies to the *FSCS*.

7.1.2 G It is also relevant to claimants.

Purpose

7.1.3 G The *FSCS* may (and in some cases must) make an offer of compensation conditional on the assignment of rights to it by a claimant. The *FSCS* may also be subrogated automatically to the claimant's rights. The purpose of this chapter is to make provision for and set out the consequences of an assignment or subrogation of the claimant's rights.

7.1.4 G In relation to *claims* in connection with *funeral plan provision activity*, the *FSCS* may:

- (1) vary existing rights and obligations in connection with *trust arrangements* and *contracts of insurance* relating to the relevant *funeral plan contract* entered into or carried out by the *relevant person* or *successor*; and
- (2) create new rights in favour of, or obligations to, the *FSCS* that override such existing rights or obligations.

This chapter also makes provision for and sets out the consequences of such a variation or creation of new rights and/or obligations: see ■ COMP 7.7.



7.2 How does the assignment of rights work?

- 7.2.1

R

The FSCS may make any payment of compensation to a claimant in respect of any *protected claim* or, where applicable, may make a payment to secure continuity of *funeral plan contracts* in accordance with ■ COMP 3.3, conditional on the claimant assigning the whole or any part of their rights against any one or more of the *relevant person*, any third party, or, where applicable, a *successor*, to the FSCS on such terms as the FSCS thinks fit.
- 7.2.2

R

If a claimant assigns the whole or any part of his rights against any *person* to the FSCS as a condition of payment, the effect of this is that any sum payable in relation to the rights so assigned will be payable to the FSCS and not the claimant.
- 7.2.3

R

(1) Before taking assignment of rights from the claimant under ■ COMP 7.2.1 R, the FSCS must inform the claimant that if, after taking assignment of rights, the FSCS decides not to pursue recoveries using those rights it will, if the claimant so requests in writing, reassign the assigned rights to the claimant. The FSCS must comply with such a request in such circumstances (see ■ COMP 7.4.2 R).

(2) [deleted] [Editor's Note: The text of this sub-paragraph has been moved to new ■ COMP 7.4.1 R.]

(3) [deleted]
- 7.2.3A

R

[deleted]
- 7.2.3AA

R

Electronic assignment

Where the FSCS has paid compensation in respect of a *claim*, this has the effect that:

(1) an assignment completed and signed electronically in a form prescribed by the FSCS will be deemed to satisfy the formalities for a valid legal assignment;

(2) production of a hard copy of the electronically signed assignment form is conclusive evidence (or, in Scotland, sufficient evidence) that the formalities of a legal assignment have been complied with and that a legal assignment has occurred; and

(3) an assignment completed electronically in the prescribed form is to be treated as having been made by writing under the hand of the assignor for the purposes of section 136 of the Law of Property Act 1925 and any other formal requirement.

7.2.3B **R** [deleted]

7.2.3C **G** [deleted]

7.2.3D **G** [deleted]

7.2.3E **R** [deleted] *[Editor's Note: The amended text of this provision has been moved to new **COMP 7.6.1 R.**]*

7.2.4 **R** [deleted] *[Editor's Note: The amended text of this provision has been moved to new **COMP 7.6.2 R.**]*

7.2.4A **R** [deleted] *[Editor's Note: The text of this provision has been moved to new **COMP 7.6.3 R.**]*

7.2.5 **R** [deleted] *[Editor's Note: The amended text of this provision has been moved to new **COMP 7.6.4 R.**]*

7.2.6 **G** [deleted] *[Editor's Note: The text of this provision has been moved to new **COMP 7.6.5 G.**]*

**Claims arising under COMP 3.2.4R**

- 7.2.7 **R**
- (1) For the purposes of compensation paid under **COMP 3.2.4 R**, *FSCS* may require any *firm* (including, but not limited to, the claimant *firm*) to assign to *FSCS* any rights the *firm* may have to claim against the *relevant person* in relation to the amount of the *shortfall* in *client money* arising out of the *failure* of the *relevant person*.
  - (2) A *firm* required by *FSCS* to assign its rights in (1), must assign those rights as requested, unless it has a reasonable excuse for not doing so.



7.3 Automatic subrogation

General

- 7.3.1
- R
- [deleted]
- 7.3.2
- R
- The FSCS's powers in this section may be used:
  - (1) separately or in any combination as an alternative and in substitution for the powers and processes elsewhere in this sourcebook; and/or
  - (2) [deleted]
  - (3) in relation to all or any part of a *protected claim* or class of *protected claim* made with respect to the *relevant person* (or, where applicable, a *successor*).
  - (4) [deleted]
- 7.3.3
- R
- The FSCS may determine that the exercise of any power in this section is subject to such incidental, consequential or supplemental conditions as the FSCS considers appropriate.

Determinations by the FSCS

- 7.3.4
- R
- (1) Any power conferred on the FSCS to make determinations under this section is exercisable in writing.
  - (2) An instrument by which the FSCS makes the determination must specify the provision under which it is made, the date and time from which it takes effect and the *relevant person* (or, where applicable, a *successor*) and *protected claims*, parts of *protected claims* and/or classes of *protected claims* in respect of which it applies.
  - (3) The FSCS must take appropriate steps to publish the determination as soon as possible after it is made. Such publication must be accompanied by a statement explaining the effect of ■ COMP 7.4.2 R.
  - (4) Failure to comply with any requirement in this *rule* does not affect the validity of the determination.
  - (5) A determination by the FSCS under this section may be amended, remade or revoked at any time and subject to the same conditions.

**Verification of determinations**

- 7.3.5 **R**
- (1) The production of a copy of a determination purporting to be made by the *FSCS* under this section:
    - (a) on which is endorsed a certificate, signed by a member of the *FSCS*'s staff authorised by it for that purpose; and
    - (b) which contains the required statements;is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
  - (2) The required statements are:
    - (a) that the determination was made by the *FSCS*; and
    - (b) that the copy is a true copy of the determination.
  - (3) A certificate purporting to be signed as mentioned in (1) is to be taken to have been properly signed unless the contrary is shown.
  - (4) A *person* who wishes in any legal proceedings to rely on a determination may require the *FSCS* to endorse a copy of the determination with a certificate of the kind mentioned in (1).

**Effect of this section on other provisions in this sourcebook etc**

- 7.3.6 **R**
- Other provisions in this sourcebook and **FEES 6** are modified to the extent necessary to give full effect to the powers provided for in this section.

- 7.3.7 **R**
- Other than as expressly provided for, nothing in this section is to be taken as limiting or modifying the rights or obligations of or powers conferred on the *FSCS* elsewhere in this sourcebook or in **FEES 6**.

**Rights and obligations against the relevant persons, successors and third parties**

- 7.3.8 **R**
- The *FSCS* may determine that:
- (1) the payment of compensation by the *FSCS*; or

- (2) a payment by the *FSCS* in connection with securing continuity of *funeral plan contracts*;  
shall have all or any of the following effects:
- (3) the *FSCS* shall immediately and automatically be subrogated, subject to such conditions as the *FSCS* determines are appropriate, to all or any part (as determined by the *FSCS*) of the rights and claims in the *United Kingdom* and elsewhere of the claimant against the *relevant person* (or, where applicable, a *successor*) and/or any third party (whether such rights are legal, equitable or of any other nature whatsoever and in whatever capacity the *relevant person* (or, where applicable, a *successor*) or third party is acting) in respect of or arising out of the *claim* in respect of which the payment of or on account of compensation was made;
- (4) the *FSCS* may claim and take legal or any other proceedings or steps in the *United Kingdom* or elsewhere to enforce such rights in its own name or in the name of, and on behalf of, the claimant, or in both names against the *relevant person* (or, where applicable, a *successor*) and/or any third party;
- (5) the subrogated rights and claims conferred on the *FSCS* shall be rights of recovery and claims against the *relevant person* (or, where applicable, a *successor*) and/or any third party which are equivalent (including as to amount and priority and whether or not the *relevant person* (or, where applicable, a *successor*) is insolvent) to and do not exceed the rights and claims that the claimant would have had; and/or
- (6) such rights and/or obligations (as determined by the *FSCS*) as between the *relevant person* (or, where applicable, a *successor*) and the claimant arising out of the *protected claim* in respect of which the payment was made shall be transferred to, and subsist between, another *authorised person* (or, where a *successor* is not an *authorised person*, an *authorised person*) with an appropriate *permission* and the claimant provided that the *authorised person* has consented (but the transferred rights and/or obligations shall be treated as existing between the *relevant person* (or where applicable, a *successor*) and the *FSCS* to the extent of any subrogation, transfer or assignment for the purposes of (3) to (5) and ■ COMP 7.3.9 R).

**7.3.9** **R** The *FSCS* may alternatively or additionally make the actions in ■ COMP 7.3.8R conditional on the claimant assigning or transferring the whole or any part of all such rights as they may have against the *relevant person* (or, where applicable, a *successor*) and/or any third party on such terms as the *FSCS* determines are appropriate.

**7.3.10** **R** (1) The *FSCS* may determine that:

- (a) if the claimant does not assign or transfer his rights under ■ COMP 7.3.9 R;
- (b) if it is impractical to obtain such an assignment or transfer; and/or
- (c) if it is otherwise necessary or desirable in conjunction with the exercise of the *FSCS*'s powers under ■ COMP 7.3.8 R or ■ COMP 7.3.9 R;

that claimant shall be treated as having irrevocably and unconditionally appointed the chairman of the *FSCS* for the time being to be his attorney and agent and on his behalf and in his name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the *United Kingdom* or any other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.

- (2) The execution of any deed or document under (1) shall be as effective as if made in writing by the claimant or by his agent lawfully authorised in writing or by will.



## **7.4 Duty on FSCS to pursue recoveries**

- 7.4.1** **R** If the *FSCS* takes assignment or transfer of rights from the claimant or is otherwise subrogated to the rights of the claimant, it must pursue all and only such recoveries as it considers are likely to be both reasonably possible and cost effective to pursue.
- 7.4.2** **R** If the *FSCS* decides not to pursue such recoveries and a claimant wishes to pursue those recoveries himself and so requests in writing, the *FSCS* must comply with that request and assign the rights back to the claimant.

## 7.6 Treatment of recoveries

- 7.6.1** **R** If the *FSCS* makes recoveries in relation to a *claim*, it may deduct from any recoveries paid over to the claimant under **COMP 7.6.2 R** part or all of its reasonable costs of recovery and distribution (if any).
- 7.6.2** **R** Unless compensation was paid under **COMP 9.2.3 R**, if a claimant assigns or transfers their rights to the *FSCS* or a claimant's rights and claims are otherwise subrogated to the *FSCS* and the *FSCS* subsequently makes recoveries through those rights or claims, those recoveries must be paid to the claimant:
- (1) to the extent that the amount recovered exceeds the amount of compensation (excluding interest paid under **COMP 11.2.7 R**) received by the claimant in relation to the *protected claim*; or
  - (2) in circumstances where the amount recovered does not exceed the amount of compensation paid, to the extent that failure to pay any sums recovered to the claimant would leave a claimant who had promptly accepted an offer of compensation or whose rights and claims had been subrogated to the *FSCS* at a disadvantage relative to a claimant who had delayed accepting an offer of compensation or whose claims had not been subrogated (see **COMP 7.6.4 R**); or
  - (3) where the *FSCS* has secured continuity of a *funeral plan contract*, to the extent that the amount recovered exceeds the cost of securing that continuity as estimated on a reasonable basis by the *FSCS*.
- 7.6.3** **R** For the purpose of **COMP 7.6.2 R** compensation received by *eligible claimants* in relation to *contracts of insurance* written at Lloyd's may include payments made from the *Central Fund*.
- 7.6.4** **R** The *FSCS* must endeavour to ensure that a claimant will not suffer disadvantage arising solely from his prompt acceptance of the *FSCS*'s offer of compensation or from the subrogation of his rights and claims to the *FSCS* compared with what might have been the position had he delayed his acceptance or had his claims not been subrogated.
- 7.6.5** **G** As an example of the circumstances which **COMP 7.6.4 R** is designed to address, take two claimants, A and B.
- (1) Both A and B have a *protected investment business claim* of £120,000 against a *relevant person* (or, where applicable, a *successor*) in

*default*. The FSCS offers both claimants £85,000 compensation (the maximum amount payable for such claims under ■ COMP 10.2.3 R). A accepts immediately, and assigns his rights against the *relevant person* (or, where applicable, a *successor*) to the FSCS, but B delays accepting the FSCS's offer of compensation.

- (2) In this example, the liquidator is able to recover assets from the *relevant person* (or, where applicable, a *successor*) *in default* and makes a payment of 50p in the pound to all the *relevant person's* or *successor's*, as appropriate, creditors. If the liquidator made the payment before any offer of compensation from the FSCS had been accepted, A and B would both receive £60,000 each from the liquidator, leaving both with a loss of £60,000 to be met by the FSCS. Both *claims* would be met in full.
- (3) However, if the payment were made by the liquidator after A had accepted the FSCS's offer of compensation and assigned his rights to the FSCS, but before B accepted the FSCS offer of compensation, A would be disadvantaged relative to B even though he has received £85,000 compensation from the FSCS. A would be disadvantaged relative to B because he promptly accepted the FSCS's offer and assigned his rights to the FSCS. Because A has assigned his rights to the FSCS, any payment from the liquidator will be made to the FSCS rather than A. In this case the FSCS has paid A more than £60,000, so the £60,000 from the liquidator that would have been payable to A will be payable in full to the FSCS and not to A.
- (4) B is able to exercise his rights against the liquidator because he delayed accepting the FSCS's offer and receives £60,000 from the liquidator. B can then make a claim for the remaining £60,000 to the FSCS which the FSCS can pay in full (see ■ COMP 10.2.2 G). B therefore suffers no loss whereas A is left with a loss of £35,000, being the difference between his claim of £120,000 and the compensation paid by the FSCS of £85,000.



7.7 Funeral plan contracts and related  
trust arrangements and contracts of  
insurance

Application

- 7.7.1 **R** This section applies:
- (1) in connection with any *trust arrangement* or *contract of insurance* that relates to *funeral plan contracts* entered into or carried out by a *relevant person* or *successor* who is *in default*; and
  - (2) irrespective of whether the *trust arrangement*, *contract of insurance* or related rights or obligations came into existence before or after the date on which this section comes into force.

- 7.7.2 **G** The *FSCS* is required to administer the compensation scheme in accordance with the European Convention on Human Rights (**COMP 2.2.1R**). This includes in accordance with Article 1 Protocol 1 of the Convention concerning the protection of property.

General

- 7.7.3 **R** The following provisions apply in relation to this section making any necessary changes:
- (1) **COMP 7.3.2R** and **COMP 7.3.3R** (General);
  - (2) **COMP 7.3.4R** (Determinations by the *FSCS*);
  - (3) **COMP 7.3.5R** (Verification of determinations); and
  - (4) **COMP 7.3.6R** (Effect of this section on other provisions in this sourcebook etc).

Rights and obligations in respect of trust arrangements and  
contracts of insurance

- 7.7.4 **R** If the *FSCS*:
- (1) has paid, or has decided to make a payment of, compensation; or
  - (2) has made a payment, or has decided to make a payment, in connection with securing continuity of *funeral plan contracts*,

		<p>the <i>FSCS</i> may make a determination with all or any of the following effects as set out in the determination:</p> <p>(3) to vary existing rights or obligations under or in respect of the <i>trust arrangement or contract of insurance</i>; such variation may, in particular, provide for the right to be transferred, or obligation to be owed, to a different <i>person</i> and, in either case, to subsist between that different <i>person</i> and the trustees or <i>insurer</i> respectively provided that the different <i>person</i> (if not the <i>eligible claimant</i>) has consented;</p> <p>(4) to create new rights under the <i>trust arrangement or contract of insurance</i> in favour of, or obligations by the trustees or <i>insurer</i> to, the <i>FSCS</i>; those new rights or obligations may, in particular, override existing rights or obligations;</p> <p>(5) to enable the <i>FSCS</i> to claim and take legal or any other proceedings or steps in the <i>United Kingdom</i> or elsewhere to enforce any such rights held by or obligations owed to the <i>FSCS</i> in its own name against the trustees, the <i>insurer</i> and/or any third party.</p>
7.7.5	R	Any right of recovery conferred on the <i>FSCS</i> by a determination under this section may not exceed the amount paid or (in the opinion of the <i>FSCS</i> ) to be paid out by the <i>FSCS</i> in connection with the <i>funeral plan contracts</i> concerned.
7.7.6	R	Any right of recovery conferred on the <i>FSCS</i> by a determination under this section is subject to the prior payment of those sums that the <i>FSCS</i> reasonably considers should be prioritised. Such sums may include: the legitimate fees and expenses of the trustee, <i>insurer</i> , actuary and <i>relevant person</i> , tax payable in respect of the <i>trust arrangement or contract of insurance</i> and existing funeral costs.
7.7.7	R	A payment by the trustees pursuant to a determination will operate to discharge the trustees from all other obligations in relation to that part of the trust assets reflecting the payment made.
		<b>Duty to pursue recoveries</b> .....
7.7.8	R	If the <i>FSCS</i> has a right of recovery under this section, it must pursue all and only such recoveries as it considers are likely to be both reasonably possible and cost effective to pursue.



## Chapter 8

# Rejection of application and withdrawal of offer



8.1 Application and Purpose

Application

8.1.1 R This chapter applies to the *FSCS*.

8.1.2 G It is also relevant to claimants.

Purpose

8.1.3 G In some circumstances, it may be appropriate for the *FSCS* to reject an application for compensation, or withdraw an offer of compensation. The purpose of this chapter is to set out when those circumstances arise.





## 8.2 Rejection of application for compensation

### Inaccurate or incomplete applications

**8.2.1** **R** If an application for compensation contains any material inaccuracy or omission, the *FSCS* may reject the application unless this is considered by the *FSCS* to be wholly unintentional.

**8.2.2** **G** A rejection under **COMP 8.2.1 R** does not mean that the claimant cannot receive compensation. A rejected application may be resubmitted, with the appropriate amendments. An application rejected under **COMP 8.2.3 R** may be resubmitted if **COMP 8.2.5 R** applies.

### Limitation periods and claims extinguished by operation of law

**8.2.3** **R** The *FSCS* must reject an application for compensation if:

- (1) the *FSCS* considers that a civil claim in respect of the liability would have been defeated by a defence of limitation at the earlier of:
  - (a) the date on which the *relevant person* (or, where applicable, a *successor*) is determined to be *in default*; and
  - (b) the date on which the claimant first indicates in writing that he may have a claim against the *relevant person* (or, where applicable, a *successor*);
 unless **COMP 8.2.4 R** or **COMP 8.2.4A R** applies; or
- (2) the liability of the *relevant person* (or, where applicable, a *successor*) to the claimant has been extinguished by the operation of law, unless **COMP 8.2.5 R** applies.

**8.2.4** **R** For *claims* made in connection with *protected investment business*, *protected home finance mediation*, *protected non-investment insurance distribution*, *protected debt management business* or *protected funeral plan business*, the *FSCS* may disregard a defence of limitation where the *FSCS* considers that it would be reasonable to do so.

**8.2.4A** **R** For a *claim* which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, the *FSCS* must disregard a defence of limitation which became available after the scheme was made or imposed.

### Dissolved companies

**8.2.5** **R** For claims made in connection with *protected investment business*, *protected non-investment insurance distribution*, *protected home finance mediation*, *protected debt management business* or *protected funeral plan business*, if a *relevant person* (or, where applicable, a *successor*), incorporated as a *company*, has been dissolved with the result that its liability to the claimant has been extinguished by operation of law, the *FSCS* must treat the claim, for the purposes of paying compensation, as if the *relevant person* or a *successor*, as appropriate, had not been dissolved.

**8.2.6** **G** ■ **COMP 8.2.5 R** means that the *FSCS* will be able to pay compensation in cases where:

- (1) the *company* was declared in default on or after 1 December 2001; and
- (2) at the time the application for compensation is made, the *company* has been dissolved.

### Protected investment business: claims covered by the pensions review

**8.2.7** **R** The *FSCS* may reject an application for compensation if:

- (1) it relates to an event or transaction which has been reviewed under the provisions of a 'deemed scheme' as defined in the Financial Services and Markets Act 2000 (Transitional Provisions) (Reviews of Pensions Business) Order 2001 (SI 2001/2512); and
- (2) as a result of the review in (1) no redress was payable, or redress was paid, in accordance with the regulatory standards for the review of such events or transactions, and the terms of any scheme order, applicable as at the date of the review.

**8.2.8** **G** The purpose of ■ **COMP 8.2.7 R** is to allow the *FSCS* to reject claims relating to pensions review cases where a review was carried out in accordance with the relevant regulatory standards applicable at the time. 'Deemed schemes' are those review schemes set up before *commencement* (that is, 30 November 2001) but which are treated as schemes for review of past business under the Act, namely the pensions review and *FSAVC* review.



### 8.3 Withdrawal of offer of compensation

- 8.3.1** **R** The *FSCS* may withdraw any offer of compensation made to a claimant if the offer is not accepted or if it is not disputed within 90 days of the date on which the offer is made.
- 8.3.2** **R** Where the amount of compensation offered is disputed, the *FSCS* may withdraw the offer but must consider exercising its powers to make a reduced or interim payment under **COMP 11.2.4 R** or **COMP 11.2.5 R** before doing so.
- 8.3.3** **R** The *FSCS* may repeat any offer withdrawn under **COMP 8.3.1 R** or **COMP 8.3.2 R**.
- 8.3.4** **R** The *FSCS* must withdraw any offer of compensation if it appears to the *FSCS* that no such offer should have been made.
- 8.3.5** **R** The *FSCS* must seek to recover any compensation paid to a claimant if it appears to the *FSCS* that no such payment should have been made, unless the *FSCS* believes on reasonable grounds that it would be unreasonable to do so, or that the costs of doing so would exceed any amount that could be recovered.



## Chapter 9

# Time limits on payment and postponing payment



9.1 Application and Purpose

Application

9.1.1 **R** This chapter applies to the *FSCS*.

9.1.2 **G** It is also relevant to claimants.

Purpose

9.1.3 **G** The purpose of this chapter is to ensure that compensation is paid to claimants as quickly as possible and that delays in paying compensation to claimants are kept to a minimum. The *FSCS* may postpone payment of compensation only in strictly limited circumstances.

## 9.2 When must compensation be paid?

9.2.1 **R** [deleted]

9.2.1A **R** [deleted]

9.2.1B **R** The FSCS must pay a *claim* as soon as reasonably possible after:

- (1) it is satisfied that the conditions in ■ COMP 3.2.1 R have been met; and
- (2) it has calculated the amount of compensation due to the claimant;  
and in any event within:
- (3) three months of that date, unless the FCA has granted the FSCS an extension, in which case payment must be made no later than six months from that date.

9.2.2 **R** The FSCS may postpone paying compensation if:

- (1) in the case of a *claim* against a *relevant person* who is an *appointed representative*, the FSCS considers that the claimant should make and pursue an application for compensation against the *appointed representative's relevant principal*; or
- (2) in the case of a *claim* relating to *protected investment business* which is not an *ICD claim*, a *claim* relating to *protected home finance mediation*, a *claim* relating to *protected non-investment insurance distribution*, a *claim* relating to *protected debt management business* or a *claim* relating to *protected funeral plan business*, the FSCS considers that the claimant should first exhaust their rights against the *relevant person* (or, where applicable, a *successor*) or any third party, or make and pursue an application for compensation to any other *person*; or
- (3) [deleted]
- (4) the *claim* is one which falls within ■ COMP 12.4.5 R or ■ COMP 12.4.7 R and it is not practicable for payment to be made within the usual time limits laid out in ■ COMP 9.2.1 R; or
- (5) the claimant has been charged with an offence arising out of or in relation to *money laundering*, and those proceedings have not yet been concluded; or

(6) [deleted]

(7) it or an insolvency practitioner appointed to the *relevant person* (or, where applicable, a *successor*) is seeking to secure continuity of the relevant *funeral plan contract*.

### 9.2.3

**R**

Notwithstanding ■ COMP 9.2.2 R(2), the *FSCS* may pay compensation to a claimant in respect of assets held by a *relevant person* (or, where applicable, a *successor*) if an insolvency practitioner has been appointed to the *relevant person* (or, where applicable, a *successor*), and:

- (1) the *FSCS* considers it likely that the insolvency practitioner would, in due course, return the assets to the claimant;
- (2) the claimant has agreed to be compensated for the assets on the basis of the valuation provided by the *FSCS*; and
- (3) the claimant has agreed, to the satisfaction of the *FSCS*, that his rights to the assets in respect of which compensation is payable should pass to it.



## Chapter 10

# Limits on the amount of compensation payable

		<div>10.1</div> <div>Application and Purpose</div>
		<div>Application</div>
10.1.1	R	This chapter applies to the <i>FSCS</i> .
10.1.2	G	It is also relevant to claimants.
		<div>Purpose</div>
10.1.3	G	In most cases it is appropriate for there to be a limit on the amount of compensation payable by the <i>FSCS</i> and that there should be some part of the <i>claim</i> which is not compensatable and for which the claimant must bear the loss. The purpose of this chapter is to set these limits out.
10.1.4	G	[deleted]



10.2 Limits on compensation payable

- 10.2.1

R

The limits on the maximum compensation sums payable by the FSCS for *protected claims* are set out in COMP 10.2.3 R.
- 10.2.2

G

The limits apply to the aggregate amount of *claims* in respect of each category of *protected claim* that an *eligible claimant* has against the *relevant person* (or, where applicable, a *successor*). Consequently, a claimant who has, for example, a *claim* against a *relevant person* (or, where applicable, a *successor*) in connection with *protected investment business* of £70,000, and a further such *claim* of £20,000 , will only receive the £85,000 limit.

10.2.3 Table Limits

This table belongs to COMP 10.2.1R

Type of claim	Level of cover	Maximum payment
<i>Protected investment business</i> (except where the <i>designated investment</i> is a <i>long-term care insurance contract</i> that is a <i>pure protection contract</i> )	100% of claim	£85,000
<i>Protected investment business</i> where the <i>designated investment</i> is a <i>long-term care insurance contract</i> that is a <i>pure protection contract</i>	100% of claim	Unlimited
<i>Protected home finance mediation</i>	100% of claim	£85,000
<i>Protected non-investment insurance distribution</i>	(1) where the <i>claim</i> is in respect of a <i>liability subject to compulsory insurance</i> : 100% of claim	Unlimited
	(2) where the <i>claim</i> is in respect of: (a) a <i>relevant omission</i> ; and (b) a professional indemnity insurance contract, or would be in respect of a professional indemnity	Unlimited

Type of claim	Level of cover	Maximum payment
	insurance contract, if the insurance contract had been effected: 100% of <i>claim</i>	
	(3) where the <i>claim</i> is: (a) in respect of a <i>relevant omission</i> ; (b) in respect of a <i>relevant general insurance contract</i> or would be in respect of a <i>relevant general insurance contract</i> if the insurance contract had been effected; and (c) arises from the death or incapacity of the <i>policyholder</i> owing to injury, sickness or infirmity: 100% of <i>claim</i>	Unlimited
	(4) where the <i>claim</i> is in respect of: (a) a <i>relevant omission</i> ; and (b) a <i>pure protection contract</i> , or would be in respect of a <i>pure protection contract</i> if the insurance contract had been effected: 100% of <i>claim</i>	Unlimited
	<b>(5) In all other cases: 90% of <i>claim</i></b>	Unlimited
<i>Protected debt management business</i>	100% of <i>claim</i>	£85,000
<i>Protected funeral plan business</i>	100% of <i>claim</i>	£85,000

**10.2.4** G COMP 12 sets out the *rules* the FSCS will follow when calculating the amount of compensation payable.

**10.2.5** G ■ COMP 12.4.4R includes further limits relating to certain claims against *pre-IP completion day incoming EEA firms*, where the act or omission giving rise to the *claim* arose before *IP completion day*. These reflect the *Investor Compensation Directive*, which will continue to apply to *EEA State compensation schemes* after *IP completion day*, under which compensation may be payable by the *pre-IP completion day incoming EEA firm's EEA State compensation scheme*.

		<b>Claims in cases where there is a successor</b>
10.2.5A	R	No claimant shall be eligible to make a claim under the <i>compensation scheme</i> in respect of both the <i>relevant person</i> and a <i>successor</i> arising from the same act or omission by the <i>relevant person</i> .
10.2.6	R	[deleted]
10.2.7	R	[deleted]
		<b>Claims against more than one member in respect of a single protected contract of insurance to be treated as a single claim</b>
10.2.8	R	
		<b>Claims arising under COMP 3.2.4 R</b>
10.2.9	R	If a <i>firm</i> has a claim under ■ COMP 3.2.4 R, the <i>FSCS</i> must treat the share of the <i>shortfall</i> of each <i>customer</i> as if it were a <i>protected claim</i> for the purposes of calculating the limits of compensation payable, within ■ COMP 10.2, in relation to that <i>customer</i> .
10.2.10	R	[deleted]
10.2.11	R	[deleted]
10.2.12	R	[deleted]
10.2.13	G	[deleted]
		<b>Claims in cases where a principal and its appointed representative are both in default</b>
10.2.14	R	No claimant shall be eligible to make a claim under the <i>compensation scheme</i> in respect of both a <i>principal</i> and its <i>appointed representative</i> arising from the same act or omission by the <i>appointed representative</i> .



## Chapter 11

# Payment of compensation



11.1 Application and Purpose

Application

11.1.1 R This chapter applies to the *FSCS*.

11.1.2 G It is also relevant to claimants.

Purpose

11.1.3 G The *FSCS* will usually pay compensation direct to the claimant, but in certain circumstances it may be appropriate for the *FSCS* to pay compensation to someone other than the claimant, or to make reduced or interim payments. The purpose of this chapter is to set out when those circumstances arise.





11.2 Payment

To whom must payment be made?

- 11.2.1 R [deleted]
- 11.2.1A R If the FSCS determines that compensation is payable (or any recovery or other amount is payable by the FSCS to the claimant), it must pay it to the claimant, or if the FSCS so decides, as directed by the claimant, unless ■ COMP 11.2.2 R, ■ COMP 11.2.2AR or ■ COMP 11.2.2CR apply.
- 11.2.1B R

Certain protected investment business claims

- 11.2.2 R Where a claimant has a *protected claim* arising out of the circumstances described in ■ COMP 12.4.5 R, the FSCS must pay any compensation (and any recovery or other amount payable by the FSCS to the claimant) to:
  - (1) the trustee of an *occupational pension scheme*; or
  - (2) a *personal pension scheme* or other *product provider*; or
  - (3) both (1) and (2);and not to the claimant, unless exceptional circumstances apply.

Collective investment scheme claims

- 11.2.2A R Where a claimant has a *claim* that falls within ■ COMP 12A.3.1R, the FSCS may pay any compensation to:
  - (1) the *participants* and not to the claimant; or
  - (2) the *collective investment scheme* and (where different) not to the claimant; or
  - (3) any combination of the above.
- 11.2.2B G As a result of ■ COMP 12A.3.1R, the FSCS must try to ensure that the amount paid is no more than the amount of the loss suffered by the *participant*.

<b>Protected funeral plan business claims</b>	
11.2.2C	<b>R</b> Where a claimant has a <i>protected funeral plan business claim</i> the <i>FSCS</i> may pay compensation (and any recovery or other amount payable by the <i>FSCS</i> to the claimant) to any other <i>person</i> on such terms and on such conditions as it thinks fit.
11.2.2D	<b>G</b> ■ COMP 3.2.2R permits the <i>FSCS</i> to pay compensation to a <i>person</i> who makes a <i>claim</i> on behalf of another <i>person</i> where certain conditions are satisfied. This includes payment to the personal representatives who make a <i>claim</i> on behalf of the deceased (see ■ COMP 3.2.3G(1)). ■ COMP 11.2.2CR permits the <i>FSCS</i> to pay compensation to any other <i>person</i> who it considers should receive the compensation. For example, this may be to a funeral services provider directly where the funeral services provider has incurred expenses in providing funeral services under the <i>funeral plan contract</i> and is yet to be reimbursed.
11.2.3	<b>R</b>
<b>Form and method of paying compensation</b>	
11.2.3A	<b>R</b> The <i>FSCS</i> may pay compensation in any form and by any method (or any combination of them) that it determines is appropriate including, without limitation: <ul style="list-style-type: none"> <li>(1) by paying the compensation (on such terms as the <i>FSCS</i> considers appropriate) to an <i>authorised person</i> with <i>permission</i> to accept <i>deposits</i> which agrees to become liable to the claimant in a like sum;</li> <li>(2) by paying compensation directly into an existing deposit account of (or for the benefit of) the claimant, or as otherwise identified by (or on behalf of) the claimant, with an <i>authorised person</i> (but before doing so the <i>FSCS</i> must take such steps as it considers appropriate to verify the existence of such an account and to give notice to the claimant of its intention to exercise this power); and/or</li> <li>(3) [deleted]</li> <li>(4) by paying compensation to a <i>firm</i>, which makes a <i>claim</i> on behalf of its <i>clients</i>, if the <i>FSCS</i> is satisfied that: <ul style="list-style-type: none"> <li>(a) the business of a <i>relevant person in default</i> has been transferred to the <i>firm</i>;</li> <li>(b) each <i>client</i> has a <i>claim</i> against the <i>relevant person in default</i> arising out of a <i>shortfall</i> in <i>client money</i> or <i>safe custody assets</i> held by the <i>relevant person in default</i>;</li> <li>(c) the <i>clients</i> in respect of which compensation is to be paid satisfy the conditions set out in ■ COMP 3.2.2 R (1); and</li> <li>(d) the <i>firm</i> has agreed, on such terms as the <i>FSCS</i> thinks fit, to pay, or credit the accounts of, without deduction, each <i>client</i>, that part of the compensation due to him.</li> </ul> </li> </ul>

### Reduced or interim payments

- 11.2.4 **R** If the *FSCS* is satisfied that in principle compensation is payable in connection with any *protected claim*, but considers that immediate payment in full would not be prudent because of uncertainty as to the amount of the claimant's overall *claim*, it may decide to pay an appropriate lesser sum in final settlement, or to make payment on account.
- 11.2.5 **R** The *FSCS* may also decide to make a payment on account or to pay a lesser sum in final settlement if the claimant has any reasonable prospect for recovery in respect of the *claim* from any third party or by applying for compensation to any other *person*.
- 11.2.6 **R** The *FSCS* may not pay a lesser sum in final settlement under **COMP 11.2.4 R** and **COMP 11.2.5 R** where the *claim* is an *ICD claim*.
- 11.2.6A **G** **COMP 11.2.4 R** applies to compensation payable in connection with any *protected claim*. It would, for example, apply to the situation where the *FSCS* considers it imprudent to make a payment in full because of uncertainty as to the value a court might attribute to a bonus provided for under a *long-term insurance contract*. In such circumstances the *FSCS* may make payment of compensation on account to the policyholder in respect of benefits under the contract the value of which is not uncertain.

### Paying interest on compensation

- 11.2.7 **R** The *FSCS* may pay interest on the compensation sum in such circumstances as it considers appropriate.
- 11.2.8 **R** Interest under **COMP 11.2.7 R** is not to be taken into account when applying the limits on the compensation sum payable in respect of a *claim* under *COMP 10*.

### Paying full compensation in return for rights

- 11.2.9 **R** Where the *FSCS* considers that the conditions in **COMP 11.2.4R** are satisfied but, in relation to a class of *claim*, in order to provide fair compensation for the generality of such *claims* it would be appropriate to take the approach in (1) and (2) rather than pay an appropriate lesser sum in final settlement or make a payment on account, it may for that class of *claim*:
- (1) receive whether by assignment, transfer or operation of law the whole or any part of a claimant's rights against the *relevant person* (or, where applicable, a *successor*), or against any third party, or both on such terms as the *FSCS* thinks fit; and
  - (2) disregard the value of the rights so received in determining the claimant's overall *claim*.
- 11.2.10 **G** Factors that the *FSCS* may take into account when considering taking the approach in **COMP 11.2.9R (1)** and **COMP 11.2.9R (2)** include whether the amount of claimants' overall *claims* are likely to be assessed within a

reasonable time frame, the circumstances of the claimants, the circumstances of the *claims* and the nature of the products to which the *claims* relate.

## Chapter 12

# Calculating compensation



12.1 Application and Purpose

Application

- 12.1.1 R This chapter applies to the *FSCS*.
- 12.1.2 G This chapter is also relevant to claimants, since it sets out how a *claim* will be quantified. (For the process of paying compensation, including the limits on the amount of compensation that can be paid, see COMP 8 - COMP 11).

Purpose

- 12.1.3 G The purpose of this chapter is to set out the different ways in which the *FSCS* is to calculate compensation.

		<div>12.2</div> <div>Quantification: general</div>
12.2.1A	R	The amount of compensation payable to the claimant in respect of any type of <i>protected claim</i> is the amount of his overall net <i>claim</i> against the <i>relevant person</i> (or, where applicable, a <i>successor</i> ) at the <i>quantification date</i> and any reference in <i>COMP</i> to overall <i>claim</i> means "overall net <i>claim</i> ".
12.2.2	R	■ COMP 12.2.1AR is, however, subject to the other provisions of <i>COMP</i> , in particular those <i>rules</i> that set limits on the amount of compensation payable for various types of <i>protected claim</i> . The limits are set out in <i>COMP</i> 10.
12.2.3	G	Where a liability of a <i>relevant person</i> (or, where applicable, a <i>successor</i> ) to an <i>eligible claimant</i> could fall within more than one type of claim protected by the <i>compensation scheme</i> whether under the <i>rules</i> of the <i>FCA</i> (see ■ COMP 5.2.1 R) or of the <i>PRA</i> , for example a <i>claim</i> in connection with <i>money</i> held by a <i>MiFID investment firm</i> that is also a <i>credit institution</i> , the <i>FSCS</i> should seek to ensure that the claimant does not receive any further compensation payment from the <i>FSCS</i> in cases where the claimant has already received compensation from the <i>FSCS</i> in respect of that <i>claim</i> .
		<div>Overall net claim</div>
12.2.4	R	A claimant's overall <i>claim</i> is the sum of the <i>protected claims</i> of the same category that he has against a <i>relevant person</i> (or, where applicable, a <i>successor</i> ) <i>in default</i> , less the amount of any liability which the <i>relevant person</i> or <i>successor</i> , as appropriate, may set off against any of those <i>claims</i> (see ■ COMP 10.2.2 G).
12.2.5	G	For the different categories of <i>protected claim</i> , see <i>COMP</i> 5 and ■ COMP 10.2.3 R.
12.2.6	G	In calculating the claimant's overall <i>claim</i> , the <i>FSCS</i> may rely, to the extent that it is relevant, on any determination by: <div><div>(1) a court of competent jurisdiction;</div><div>(2) a trustee in bankruptcy;</div><div>(3) a liquidator;</div><div>(4) any other recognised insolvency practitioner;</div></div>

and on the certification of any net sum due which is made in default proceedings of any exchange or clearing house.

### Payments to the claimant

- 12.2.7A **R** The *FSCS* must take into account any payments to the claimant (including amounts recovered by the *FSCS* on behalf of the claimant) made by the *relevant person* (or, where applicable, a *successor*) or the *FSCS* or any other *person*, including any payment made by the *FSCS* under the *PRA's rules*, if that payment is connected with the *relevant person's* (or, where applicable, a *successor's*) liability to the claimant in calculating the claimant's overall *claim*.

### Time for calculation of compensation due to the claimant

- 12.2.8 **R** The *FSCS* must calculate the amount of compensation due to the claimant as soon as reasonably possible after it is satisfied that the conditions in **COMP 3.2.1 R** have been met.

### Settlement of claims

- 12.2.10 **R**
- (1) The *FSCS* may pay compensation without fully or at all investigating the eligibility of the claimant and/or the validity and/or amount of the *claim* notwithstanding any provision in this sourcebook or **FEES 6** to the contrary, if in the opinion of the *FSCS*:
    - (a) the costs of investigating the merits of the *claim* are reasonably likely to be disproportionate to the likely benefit of such investigation; and
    - (b) (as a result or otherwise) it is reasonably in the interests of *participant firms* to do so.
  - (2) This *rule* does not apply with respect to *claims* that are excluded by article 3 of the *Investor Compensation Directive*.



		<div>12.3</div> <div>Quantification date</div>
		<div>Protected investment business</div>
12.3.5	R	For a <i>claim</i> made in connection with <i>protected investment business</i> which is not an <i>ICD claim</i> , the <i>FSCS</i> must determine a specific date as the <i>quantification date</i> , and this date may be either on, before or after the date of the determination of default.
12.3.6	R	For a <i>claim</i> made in connection with <i>protected investment business</i> which is an <i>ICD claim</i> , the <i>quantification date</i> is the date the <i>relevant person</i> , or, where applicable, a <i>successor</i> , is determined to be <i>in default</i> .
		<div>Protected home finance mediation</div>
12.3.7	R	For a <i>claim</i> made in connection with <i>protected home finance mediation</i> , the <i>FSCS</i> must determine a specific date as the <i>quantification date</i> , and this date may be either on, before or after the date of determination of default.
		<div>Protected non-investment insurance distribution</div>
12.3.8	R	For a <i>claim</i> made in connection with <i>protected non-investment insurance distribution</i> , the <i>FSCS</i> must determine a specific date as the <i>quantification date</i> , and this date may be either on, before or after the date of determination of default.
		<div>Protected debt management business</div>
12.3.9	R	For a <i>claim</i> made in connection with <i>protected debt management business</i> , the <i>FSCS</i> must determine a specific date as the <i>quantification date</i> , and this date may be either on, before or after the date of determination of default.
		<div>Protected funeral plan business</div>
12.3.10	R	For a <i>claim</i> made in connection with <i>protected funeral plan business</i> , the <i>FSCS</i> must determine a specific date as the <i>quantification date</i> , and this date may be either on, before or after the date of determination of default.

	<div><div></div><div>12.4    The compensation calculation</div></div>
	<div><div></div><div><b>Protected investment business: general</b></div></div>
12.4.2	<div><div>R</div><div><p>The <i>FSCS</i> may pay compensation for any <i>claim</i> made in connection with <i>protected investment business</i> which is not:</p><div><div>(1) a <i>claim</i> for property held; or</div><div>(2) a <i>claim</i> arising from transactions which remain uncompleted at the <i>quantification date</i>;</div></div><p>only to the extent that the <i>FSCS</i> considers that the payment of compensation is essential in order to provide the claimant with fair compensation.</p></div></div>
12.4.3	<div><div>R</div><div><p>The <i>FSCS</i> must not pay compensation for any <i>claim</i> in connection with <i>protected investment business</i> to the extent that it relates to or depends on:</p><div><div>(1) a failure of investment performance to match a guarantee given or representation made; or</div><div>(2) a contractual obligation to pay or promise to pay which the <i>FSCS</i> considers to have been undertaken without full consideration passing to the <i>relevant person</i> or in anticipation of possible insolvency; or</div><div>(3) the mere fluctuation in the value of an <i>investment</i>.</div></div></div></div>
12.4.4	<div><div>R</div><div><p>If the claimant has an <i>ICD claim</i> against a <i>pre-IP completion day incoming EEA firm</i> which is a <i>MiFID investment firm</i> or, where applicable, a <i>successor</i> of such a <i>firm</i>, and the act or omission giving rise to the <i>ICD claim</i> arose before <i>exit day</i>, the <i>FSCS</i> must take account of the liability of the <i>EEA State compensation scheme</i> in calculating the compensation payable by the <i>FSCS</i>. For the purposes of applying this <i>rule</i>, "<i>ICD claim</i>" and "<i>MiFID investment firm</i>" have the meaning they had immediately before <i>exit day</i>.</p></div></div>
	<div><div></div><div><b>Protected investment business: claims covered by the pensions review</b></div></div>
12.4.5	<div><div>R</div><div><p>If the claimant has a <i>claim</i> in connection with <i>protected investment business</i> relating to the fact that the claimant has:</p><div><div>(1) while eligible or reasonably likely to become eligible to be a member of an <i>occupational pension scheme</i>, instead become a member of a <i>personal pension scheme</i> or entered into a <i>retirement annuity</i>; or</div></div></div></div>

- (2) ceased to be a member of, or to pay contributions to, an *occupational pension scheme*, and has instead become a member of a *personal pension scheme* or entered into a *retirement annuity*; or
- (3) transferred to a *personal pension scheme* accrued rights under an *occupational pension scheme* which is not a defined contribution (money purchase) scheme; or
- (4) ceased to be a member of an *occupational pension scheme* and has instead (by virtue of such a provision as is mentioned in section 591(2)(g) of the Income and Corporation Taxes Act 1988) entered into arrangements for securing relevant benefits by means of an annuity;

the *FSCS* must take the steps set out in *COMP 12.4.6R*.

### 12.4.6

**R**

If *COMP 12.4.5R* applies, the *FSCS* must follow the Specification of Standards and Procedures issued by the *FSA* in October 1994, as supplemented and modified by subsequent guidance issued by the *FSA* (in particular, that of November 1996) (the 'Specification') in:

- (1) assessing whether a *relevant person* has complied with the relevant regulatory requirements;
- (2) assessing whether non-compliance has caused the claimant loss; and
- (3) calculating the amount of compensation due (where the *FSCS* may rely on calculations made by the *FCA* or any previous regulator of the *relevant person*);

unless the *FSCS* considers that departure from the Specification is essential in order to provide the claimant with fair compensation.

### Protected investment business: FSAVC Review

### 12.4.7

**R**

Where a *claim* made in connection with *protected investment business* relates to an Additional Voluntary Contribution policy advised on or arranged by a *relevant person*, the *FSCS* must follow the FSAVC Review Model Guidance issued by the *FSA* in May 2000 (the "Guidance") in:

- (1) assessing whether the *relevant person* has complied with the relevant regulatory requirements;
- (2) assessing whether non-compliance has caused the claimant loss; and
- (3) calculating the compensation due (where the *FSCS* may rely on calculations made by the *FCA* or any previous regulator of the *relevant person*);

unless the *FSCS* considers that departure from the Guidance is essential in order to provide the claimant with fair compensation.

### Protected investment business: excessive benefits

### 12.4.8

**R**

The *FSCS* may decide to reduce the compensation that would otherwise be payable for a *claim* made in connection with *protected investment business* that is not an *ICD claim*, if it is satisfied that:

		<div><div>(1) there is evidence of contributory negligence by the claimant; or</div><div>(2) payment of the full amount would provide a greater benefit than the claimant might reasonably have expected or than the benefit available on similar <i>investments</i> with other <i>relevant persons</i>; and</div><div>it would be inequitable for the <i>FSCS</i> not to take account of (1) or (2).</div></div>
12.4.16	R	[deleted]
		<div>Protected home finance mediation</div>
12.4.17	R	The <i>FSCS</i> may pay compensation for any <i>claim</i> made in connection with <i>protected home finance mediation</i> only to the extent that the <i>FSCS</i> considers that the payment of compensation is essential in order to provide the claimant with fair compensation.
12.4.18	R	<div>The <i>FSCS</i> must not pay compensation for any <i>claim</i> in connection with <i>protected home finance mediation</i> to the extent that it relates or depends on:</div> <div><div>(1) a failure of investment performance to match a guarantee given or representation made; or</div><div>(2) the mere fluctuation in the value of property</div></div>
12.4.19	R	The <i>FSCS</i> may decide to reduce the compensation that would otherwise be payable for a <i>claim</i> made in connection with <i>protected home finance mediation</i> if it is satisfied that there is evidence of contributory negligence by the claimant and it would be inequitable for <i>FSCS</i> not to take account of that fact.
		<div>Protected non-investment insurance distribution</div>
12.4.20	R	The <i>FSCS</i> may pay compensation for any <i>claim</i> made in connection with <i>protected non-investment insurance distribution</i> only to the extent that the <i>FSCS</i> considers that the payment of compensation is essential in order to provide the claimant with fair compensation.
12.4.21	R	<div>The <i>FSCS</i> may decide to reduce the compensation that would otherwise be payable for a <i>claim</i> made in connection with <i>protected non-investment insurance distribution</i> if it is satisfied that:</div> <div>(1) there is evidence of contributory negligence by the claimant; or</div>

- (2) payment of the full amount would provide a greater benefit than the claimant might reasonably have expected or than the benefit available on similar contracts with other relevant persons; and
- it would be inequitable for *FSCS* not to take account of (1) or (2).

**Protected debt management business**

- 12.4.21A **R** The *FSCS* may pay compensation for any *claim* made in connection with *protected debt management business* only to the extent that the *FSCS* considers that the payment of compensation is essential to provide the claimant with fair compensation.

**Protected funeral plan business**

- 12.4.21B **R** The *FSCS* may pay compensation for any *claim* made in connection with *protected funeral plan business* only to the extent that the *FSCS* considers that the payment of compensation is essential to provide the claimant with fair compensation.

**Consumer redress schemes**

- 12.4.22 **R** For a *claim* which falls to be dealt with (or has properly been dealt with) under a *consumer redress scheme*, the *FSCS* must apply the scheme in:
- (1) assessing whether a *relevant person* has complied with the relevant regulatory requirements;
  - (2) assessing whether non-compliance has caused the claimant loss; and
  - (3) calculating the compensation due (where the *FSCS* may rely on calculations made by the *FCA* or other competent persons acting on the *FCA*'s behalf or authorised to make them under the scheme);
- unless the *FSCS* considers that departure from the scheme is essential in order to provide the claimant with fair compensation.



12.5 [deleted]

12.5.1 **R** [deleted]

12.5.2 **R** [deleted]



### 12.6 Quantification: trustees, operators of pension schemes, persons winding up pension schemes, personal representatives, agents, and joint claims

- [Note: ■ COMP 12.6.1R now appears at ■ COMP 12A.1.1R]
- [Note: ■ COMP 12.6.2R now appears at ■ COMP 12A.1.2R]
- [Note: ■ COMP 12.6.2AR now appears at ■ COMP 12A.1.3R]
- [Note: ■ COMP 12.6.3R now appears at ■ COMP 12A.1.4R]
- [Note: ■ COMP 12.6.4R now appears at ■ COMP 12A.1.5R]
- [Note: ■ COMP 12.6.5R now appears at ■ COMP 12A.1.6R]
- [Note: ■ COMP 12.6.6R now appears at ■ COMP 12A.1.7R]
- [Note: ■ COMP 12.6.8R now appears at ■ COMP 12A.2.1R]
- [Note: ■ COMP 12.6.9R now appears at ■ COMP 12A.2.2R]
- [Note: ■ COMP 12.6.10R now appears at ■ COMP 12A.2.3R]
- [Note: ■ COMP 12.6.11R now appears at ■ COMP 12A.4.1R]
- [Note: ■ COMP 12.6.12R now appears at ■ COMP 12A.5.1R]





# Chapter 12A

## Special cases

## 12A.1 Trustees and pension schemes

- 12A.1.1** **R** If a claimant's *claim* includes a *claim* as:
- trustee; or
  - the *operator* of, or the *person* carrying on the *regulated activity* of winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or *personal pension scheme*,
- the *FSCS* must treat him in respect of that *claim* as if his *claim* was the *claim* of a different *person*.
- [**Note:** this and other rules in this section derive from provisions previously in **COMP 12.6**]
- 12A.1.2** **R** If a claimant has a *claim* as a bare trustee or *nominee company* for one or more beneficiaries, the *FSCS* must treat the beneficiary or beneficiaries as having the *claim*, and not the claimant.
- 12A.1.3** **R** If a claimant has a *claim*:
- (1) as the trustee of an *occupational pension scheme* or the trustee or *operator* of, or the *person* carrying on the *regulated activity* of winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or *personal pension scheme*; and
  - (2) for one or more members of a pension scheme (or, where relevant, the beneficiary of any member) whose benefits are, or include, *money-purchase benefits*;
- the *FSCS* must treat the member or member scheme (or, where relevant, the beneficiary of any member) as having the *claim*, and not the claimant (insofar as members' benefits are *money-purchase benefits*).
- 12A.1.4** **R** If any group of *persons* has a *claim* as:
- (1) trustees; or
  - (2) *operators* of, or as *persons* carrying on the *regulated activity* of winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or *personal pension scheme*,

(or any combination thereof), the FSCS must treat them as a single and continuing *person* distinct from the *persons* who may from time to time be the trustees, *operators* or *persons* winding up the relevant pension scheme.

12A.1.5 **R** Where the same *person* has a *claim* as:

- (1) trustee for different trusts or for different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*; or
- (2) the *operator* of, or the *person* carrying on the *regulated activity* of winding up, different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*,

COMP applies as if the *claims* relating to each of these trusts or schemes were claims of different *persons*.

12A.1.6 **R** Where the claimant is a trustee, and some of the beneficiaries of the trust are *persons* who would not be *eligible claimants* if they had a claim themselves, the FSCS must adjust the amount of the overall *claim* to eliminate the part of the claim which, in the FSCS's view, is a claim for those beneficiaries.

12A.1.7 **R** Where any of the provisions of ■ COMP 12A.1.1R to ■ COMP 12A.1.6R apply, the FSCS must try to ensure that any amount paid to:

- (1) the trustee; or
- (2) the *operator* of, or the *person* carrying on the *regulated activity* of winding up, a *stakeholder pension scheme* (which is not an *occupational pension scheme*) or *personal pension scheme*,

is, in each case:

- (3) for the benefit of members or beneficiaries who would be *eligible claimants* if they had a *claim* themselves; and
- (4) no more than the amount of the loss suffered by those members or beneficiaries.

		<div>12A.2</div> <div>Personal representatives, agents and joint claims</div>
12A.2.1	R	<p>Where a <i>person</i> numbers among his <i>claims</i> a <i>claim</i> as the personal representative of another, the <i>FSCS</i> must treat him in respect of that <i>claim</i> as if he were standing in the shoes of that other person.</p> <p>[<b>Note:</b> this and other rules in this section derive from provisions previously in <b>COMP 12.6</b>]</p>
12A.2.2	R	<p>If a claimant has a <i>claim</i> as agent for one or more <i>principals</i>, the <i>FSCS</i> must treat the <i>principal</i> or <i>principals</i> as having the <i>claim</i>, not the claimant.</p>
12A.2.3	R	<p>If two or more <i>persons</i> have a joint beneficial <i>claim</i>, the <i>claim</i> is to be treated as a <i>claim</i> of the partnership if they are carrying on business together in partnership. Otherwise each of those <i>persons</i> is taken to have a <i>claim</i> for his share, and in the absence of satisfactory evidence as to their respective shares, the <i>FSCS</i> must regard each <i>person</i> as entitled to an equal share.</p>

## 12A.3 Collective investment schemes

### 12A.3.1

**R**

- (1) If a claimant has a *claim* in its capacity as a *collective investment scheme*, or anyone who is an operator, depositary, manager or trustee of such a scheme, and the conditions in (2) are met:
  - (a) the FSCS must treat the *participant* or *participants* as having the *claim*, and not the claimant;
  - (b) ■ COMP 12A.1.6R and ■ COMP 12A.1.7R apply, reading “trustee” as “*collective investment scheme*, or anyone who is an operator, depositary, manager or trustee of such a scheme”, “trust” as “*collective investment scheme*” and “beneficiary” as “participant”.
- (2) The conditions referred to in (1) are:
  - (a) the *claim* is against a *relevant person*:
    - (i) acting in the capacity of *manager* or *depositary* of the *collective investment scheme*; or
    - (ii) in connection with that person's *managing investments* or *safeguarding and administering investments*; and
  - (b) as a result of the matters in (a), a participant in the *collective investment scheme* has suffered loss but the participant has no *claim* for that loss against that *relevant person*.

## 12A.4 Foreign law

### 12A.4.1

**R**

In applying *COMP* to *claims* arising out of business done with a *branch* or *establishment* of the *relevant person* outside the *United Kingdom*, the *FSCS* must interpret references to:

- (1) *persons* entitled as personal representatives, trustees, bare trustees or agents, *operators of pension schemes* or *persons* carrying on the *regulated activity* of winding up *pension schemes*; or
- (2) *persons* having a joint beneficial *claim* or carrying on business in partnership;

as references to *persons* entitled, under the law of the relevant country or territory, in a capacity appearing to the *FSCS* to correspond as nearly as may be to that capacity.

[**Note:** this rule derives from a provision previously in ■ COMP 12.6]



## 12A.5

Claims arising under COMP  
3.2.4R

## 12A.5.1

**R**

If a *firm* has a *claim* under ■ COMP 3.2.4R, the *FSCS* must treat each *customer* of the *firm* as having the *claim* for the purposes of calculating compensation within ■ COMP 12.

[**Note:** this rule derives from a provision previously in ■ COMP 12.6]

## 12A.6 Funeral plans

### 12A.6.1 R

- (1) The *FSCS* may make payments to, or on behalf of, a relevant *funeral plan provider* or to the administrator or liquidator of a *funeral plan provider*, in respect of any reasonable fees, costs, charges or other expenses incurred for the purpose of the administrator or liquidator of that *funeral plan provider* complying with a request of the *FSCS* under section 215B of the Act.
- (2) In paragraph (1), 'reasonable fees, costs, charges or other expenses' means those fees, costs, charges or other expenses that the *FSCS* is satisfied:
  - (a) have been reasonably incurred;
  - (b) have been exclusively incurred for the purpose of an administrator or liquidator complying with a request under section 215B of the Act; and
  - (c) only to the extent that such fees, costs, charges or other expenses cannot otherwise be met.

### 12A.6.2 G

Section 215B of the Act (Scheme manager's power to require assistance from liquidator etc. in relation to funeral plan contracts) confers a power on the *FSCS* to require the administrator or liquidator of a *funeral plan provider* to provide any assistance to the *FSCS* that the *FSCS* considers necessary to enable it to administer the compensation scheme and secure continuity of cover in relation to *funeral plan contracts*.



# Chapter 13

## Funding



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[deleted: the provisions in relation to the funding of the Financial Services Compensation Scheme are set out in FEES 6 (Financial Services Compensation Scheme Funding)]



# Appendix 1

## LCF Compensation Scheme

### 1.1 Automatic Subrogation

**App 1.1.1** G The following rules in ■ COMP 7.3 and associated definitions apply in connection with the exercise by the *FSCS* of functions in respect of the *LCF Compensation Scheme* with the modifications shown below (new wording is underlined and deleted wording is struck through):

**(1) COMP  
7.3.4R**

- (1) Any power conferred on the *FSCS* to make determinations under ~~this section~~ modified COMP 7.3.8R is exercisable in writing.
- (2) An instrument by which the *FSCS* makes the determination must specify the provision under which it is made, the date and time from which it takes effect and the ~~relevant person~~ (or, where applicable, a ~~successor~~) and ~~protected claims, parts of protected claims and/or classes of protected claims~~ claims under the LCF Compensation Scheme in respect of which it applies.
- (3) The *FSCS* must take appropriate steps to publish the determination as soon as possible after it is made. ~~Such publication must be accompanied by a statement explaining the effect of COMP 7.4.2R.~~
- (4) Failure to comply with any requirement in this *rule* does not affect the validity of the determination.
- (5) A determination by the *FSCS* under ~~this section~~ modified COMP 7.3.8R may be amended, remade or revoked at any time and subject to the same conditions.

**(2) COMP  
7.3.5R**

- (1) The production of a copy of a determination purporting to be made by the *FSCS* under ~~this section~~ modified COMP 7.3.8R:
  - (a) on which is endorsed a certificate, signed by a member of the *FSCS*'s staff authorised by it for that purpose; and
  - (b) which contains the required statements;

is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are:
  - (a) that the determination was made by the *FSCS*; and
  - (b) that the copy is a true copy of the determination.
- (3) A certificate purporting to be signed as mentioned in (1) is to be taken to have been properly signed unless the contrary is shown.
- (4) A *person* who wishes in any legal proceedings to rely on a determination may require the *FSCS* to endorse a copy of determination with a certificate of the kind mentioned in (1).

**(3) COMP  
7.3.8R**

The *FSCS* may determine that:

- (1) The payment of compensation by the *FSCS* under the LCF Compensation Scheme;
- (2) [deleted]

shall have the following effects:

- (3) the *FSCS* shall immediately and automatically be subrogated, subject to such conditions as the *FSCS* determines are appropriate, to all or any part (as determined by the *FSCS*) of the rights and claims in the *United Kingdom* and elsewhere of the ~~claimant bondholder~~ against ~~the relevant person~~ (or, where applicable, a ~~successor~~) London Capital & Finance plc and/or any third party (except the *FCA*) (whether such rights are legal, equitable or of any other nature whatsoever and in whatever capacity ~~the relevant person~~ (or, where applicable, a ~~successor~~) London Capital & Finance plc or relevant third party is acting) in respect of or arising out of the ~~claim~~ claim in respect of which the payment of or on account of compensation was made;

- (4) the *FSCS* may claim and take legal action or any other proceedings or steps in the *United Kingdom* or elsewhere to enforce such rights in its own name or in the name of, and on behalf of, the ~~claimant~~ bondholder, or in both names against the ~~relevant person (or, where applicable, a successor)~~ London Capital & Finance plc and/or any relevant third party;
- (5) the subrogated rights and claims conferred on the *FSCS* shall be rights of recovery and claims against the ~~relevant person (or, where applicable, a successor)~~ London Capital & Finance plc and/or any relevant third party which are equivalent (including as to amount and priority and whether and whether or not the ~~relevant person (or, where applicable, a successor)~~ London Capital & Finance plc and/or any relevant third party is insolvent) to and do not exceed the rights and claims that the ~~claimant~~ bondholder would have had; ~~and/or~~.

## 1.2 Payments to Her Majesty's Treasury

**App 1.2.1** G Where, after the *FSCS* has paid compensation to a *bondholder* under the *LCF Compensation Scheme*, the *FSCS* subsequently determines that the conditions in ■ **COMP 3.2.1R** are satisfied in relation to a *protected claim* against *London Capital & Finance plc* and/or a third party, the following rule in ■ **COMP 11.2** applies with the modifications shown below (new wording is underlined and deleted wording is struck through):

**COMP  
11.2.1AR**

If the *FSCS* determines that compensation is payable ~~(or any recovery or other amount is payable by the *FSCS* to the claimant)~~ to a *bondholder* under the *compensation scheme*, it must pay it ~~to the claimant, or if the *FSCS* so decides, as~~

~~directed by the claimant, unless *COMP* 11.2.2R or *COMP* 11.2.2AR apply.~~

- (1) such compensation to Her Majesty's Treasury up to the amount paid to the *bondholder* under the *LCF Compensation Scheme*; and
- (2) any excess after (1), to the *bondholder*, up to the limits on maximum compensation sums payable by the *FSCS* under the *compensation scheme* as set out in *COMP* 10.2.3R.

**Note:** Under Part 15A of the *Act*, Her Majesty's Treasury may, by notice, require the *FSCS* to exercise specified functions in respect of specified claims for compensation

under a scheme or arrangement established for the payment of compensation to customers of persons who provide financial services or carry on a business connected with the provision of such services. The *FCA* may by rules make provision in connection with the exercise by the *FSCS* of functions in respect of such a scheme and apply any provision of the *compensation scheme* to it with or without modification. This Appendix sets out the *FCA*'s rules, as modified, that apply where the *FSCS* exercises its functions in respect of the *LCF Compensation Scheme*.

The *LCF Compensation Scheme* is administered in accordance with the LCF Compensation Scheme Rules. These rules, and more information, are available at <https://www.gov.uk/lcfcompensationscheme>.



## Compensation

### COMP TP 1 Transitional Provisions

(1)	(2)	(3)	(4)		(5)	(6)
	Material to which the transitional provision applies		Transitional Provision		Transitional provision: dates in force	Handbook Provisions: coming into force
1	COMP 5	R	<i>Protected claims</i>		<b>Indefinitely</b>	<i>Com-mencement</i>
			(1)	[deleted]		
			(2)	[deleted]		
			(3)	<b>A claim in connection with protected investment business includes a claim in respect of a pending application.</b>		
			(4)	<b>Where the claim is in respect of a pending application, the FSCS must apply the rules of the relevant former scheme, as they applied to the default before commencement.</b>		
			(5)	<b>The rules of each investment business compensation scheme are amended so that references to the person managing the scheme are replaced by references to the FSCS.</b>		
			(6)	[deleted]		
			(7)	[deleted]		
			(8)	<b>Where the default occurs after commencement, a claim in connection with protected investment business includes a claim that could have been entertained under an investment business compensation scheme (provided that the person making the claim has not also made a pending</b>		

(1)	(2)	(3)	(4)			(5)	(6)
	Material to which the transitional provision applies		Transitional Provision			Transitional provision: dates in force	Handbook Provisions: coming into force
					<i>application arising out of the same set of facts).</i>		
2	COMP 13.5 and COMP 13.6	R	Expired				
3	COMP 13.4.6 R and COMP 13.6.7 R	R	Expired				
4	COMP 13.5.8 R	R	Expired				
5	COMP 6.2.1 R	R	[deleted]				
6	COMP 6.2.1 R	G	[deleted]				
7	COMP 6.2.1 R	G	[deleted]				
8	Amendments introduced by the Compensation Sourcebook (Amendment No.2) Instrument 2003.	R	[deleted]				
9	COMP 13.6.8 R	R	Expired				
10	COMP 5.7.1 R, COMP 13.4.7 R and COMP 13.6.9 R	R	[deleted]				
11	FEES 6.3.1 R, FEES 6.3.22 R, FEES 6.4.8 R, FEES 6.4.6 R, FEES 6.5.1 R and FEES 6.5.6 R	R	[deleted]				
12	FEES 6.5.7 R (4), FEES 6.3.22 R, FEES 6.4.6 R, FEES 6.4.8 R, FEES 6.5.1 R, and FEES 6.5.6 R	R	[deleted]				
13	FEES 6.5.7 R (4), FEES 6.5.10 R, and	R	[deleted]				

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
	FEES 6.5.13 R (2)				
14	FEES 6.5.7 R (5), FEES 6.5.11 R, and FEES 6.5.13 R (2)		[deleted]		
15	COMP 5.4.4 R (4)(a) and COMP 5.4.4 R (4)(b)	R	[deleted]		
16	COMP 10.2.3 R	R	[deleted]		
17	Amendments introduced by the Compensation Sourcebook (Amendment No 8) Instrument 2008	R	Provisions and definitions arising out of (2) only apply to defaults on or occurring after 7 October 2008	From 7 October 2008 indefinitely	7 October 2008
18	COMP 10.2.3 R	R	[deleted]		
19	Amendments to COMP 10.2.3 R introduced by the Financial Services Compensation Scheme (Limits Amendment) Instrument 2009	R	Provisions and definitions arising out of (2) only apply to defaults on or occurring after 1 January 2010.	From 1 January 2010 indefinitely	1 January 2010
20	COMP 4.3.1 R	R	[deleted]		
21	COMP 17.3 and COMP 17.2.7 R	R	[deleted]		
22	COMP 17.3	R	[deleted]		
23	COMP 17.3.10 R and COMP 17.3.12 R	R	[deleted]		
24	COMP 10.2.3 R	R	[deleted]		

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
25	The amendment of all references in <i>COMP</i> (other than in the heading in respect of <a href="#">COMP 12.2.4 R</a> ) to "overall net <i>claim</i> " to "overall <i>claim</i> "	R	The changes referred to in (2) made by the Financial Services Compensation Scheme (Banking Compensation Reform) Instrument 2009 do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 31 December 2010.	From 31 December 2010 indefinitely	From 31 December 2010
26	<a href="#">COMP 12.3.1 R</a> and <a href="#">COMP 15.1.12 R</a>	R	[deleted]		
27	<a href="#">COMP 4.2.2 R(9)</a>	R	The changes referred to in (2), made by the Compensation Sourcebook (Occupational Pension Scheme Trustees) Instrument 2011 do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 October 2011.	From 1 October 2011 indefinitely	From 1 October 2011
28	<a href="#">COMP 16.3</a>	R	[deleted]		
29	<a href="#">COMP 17</a>	R	[deleted]		
30	<a href="#">COMP 17.3</a> and <a href="#">COMP 17.2.7 R</a>	R	[deleted]		
31	<a href="#">COMP 17.3</a>	R	[deleted]		
32	<a href="#">COMP 17.3.10 R</a> and <a href="#">COMP 17.3.12 R</a>	R	[deleted]		
33	Amendments introduced by Annex A and Part 1 of Annex B of the Compensation Sourcebook (Amendment No 9) Instrument 2012.	R	The changes referred to in (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 October 2012. Notwithstanding the above the changes to <a href="#">COMP 12.2.10 R</a> apply irrespective of when the default occurred.	From 1 October 2012 indefinitely	From 1 October 2012
34	Amendments introduced by the Compensation	R	The changes referred to in (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 13 December 2013.	From 13 December 2013 indefinitely	From 13 December 2013

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
	Sourcebook (Investments by Large Unincorporated Associations and Certain Large Partnerships) Instrument 2013				
35	All the <i>rules</i> and <i>guidance</i> in <i>COMP</i> applicable to <i>protected home finance mediation</i> .	R	<p>The <i>compensation scheme</i> does not provide cover for <i>claims</i> in respect of any mortgage mediation activity relating to a <i>second charge regulated mortgage contract</i> if:</p> <p>(1) the <i>relevant person</i> was in <i>default</i> before 21 March 2016; or</p> <p>(2) the basis for the <i>claim</i> arose before 21 March 2016.</p>	From 21 March 2016 indefinitely	Not applicable
35	Amendments introduced by the Compensation Sourcebook (Large unincorporated associations) Instrument 2013	R	[deleted]		
36	COMP 17.2.1 R and COMP 17.2.3 R	R	[deleted]		
37	COMP 10.2.3R(2), (3) and (4)	R	The rules referred to in (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i> , or against a <i>successor</i> , that was <i>in default</i> before 29 April 2016. Instead, COMP 10.2.3R(5) will continue to apply to such <i>claims</i> .	From 29 April 2016 indefinitely	29 April 2016
38	COMP 4.2.2R(4), COMP 4.2.2R(9) and COMP 12.6.2AR	R	The changes referred to in (2) do not apply to a <i>claim</i> against a <i>relevant person</i> , or against a <i>successor</i> , that was <i>in default</i> before 29 April 2016.	From 29 April 2016 indefinitely	29 April 2016

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
39	Amendments introduced by the Compensation Sourcebook (Amendment No 10) Instrument 2016	R	Where a <i>claim</i> is against a <i>successor</i> that is not an <i>authorised person</i> , provisions and definitions arising out of (2) only apply if the default occurs on or after 29 April 2016 and the transfer, under which the <i>successor</i> assumed responsibility for liabilities arising from acts or omissions of the <i>relevant person</i> , occurred on or after 1 April 2013.	From 29 April 2016 indefinitely	29 April 2016
39A	Amendments introduced by the Financial Services Compensation Scheme (Extension of Scope to Recognised Investment Exchanges) Instrument 2017	R	The changes referred to in (2) do not apply in relation to a <i>claim</i> against a <i>recognised investment exchange</i> , or against a <i>successor</i> , arising from acts or omissions before 3 January 2018.	From 3 January 2018 indefinitely	3 January 2018
40	Amendments introduced by the Financial Services Compensation Scheme (Funding and Scope) Instrument 2017	R	The changes referred to in column (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i> , or against a <i>successor</i> , that was in <i>default</i> before 1 April 2018.	From 1 April 2018 indefinitely	1 April 2018
41	Amendments introduced by the Financial Services Compensation Scheme (Funding Review) In	R	The changes referred to in column (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i> , or against a <i>successor</i> , that was in <i>default</i> before 1 April 2019.	From 1 April 2019 indefinitely	1 April 2019

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
	Instrument 2018				
42	Amendments introduced by the Exiting the European Union: Redress Sourcebooks (Amendments) Instrument 2019	R	The changes referred to in column (2) do not apply in relation to a <i>relevant person</i> or a <i>successor</i> that was <i>in default</i> on or before <i>IP completion day</i> .	From <i>IP completion day</i> indefinitely	<i>IP completion day</i>
43	Amendments to COMP 5.5.2R(2) – (3) and COMP 5.7.2R(1)(b) and (2)(b) by the Exiting the European Union: Redress Sourcebooks (Amendments) Instrument 2019	R	The amendments referred to in column (2) only apply to acts or omissions by a <i>relevant person</i> after <i>IP completion day</i> .	From <i>IP completion day</i> indefinitely	<i>IP completion day</i>
44	COMP TP 43	G	The purpose of COMP TP 43 is to ensure that the FSCS can pay compensation after <i>IP completion day</i> in respect of acts or omissions before <i>IP completion day</i> by a <i>branch</i> of a <i>UK firm</i> that was established in an <i>EEA State</i> .		
45	COMP 6.3.1R, 6.3A.1R, 9.2.2R, 11.2.6, 12.3.5R and 12.3.6R	R	The defined terms “ <i>ICD claim</i> ” and “ <i>MiFID investment firm</i> ” in or under the provisions referred to in column (2) have the meaning they had immediately before <i>IP completion day</i> for any of the following purposes: (1) declaring <i>in default</i> , or (2) postponing compensation where the <i>claim</i> is not an <i>ICD claim</i> against, or (3) paying a lesser sum in final settlement where the <i>claim</i> is not an <i>ICD claim</i> against, or	From <i>IP completion day</i> indefinitely	<i>IP completion day</i>

46	Amendments and deletions in <i>participant firm</i> and <i>COMP</i> by the Exiting the European Union: Glossary (Amendments) Instrument 2019 and the Exiting the European Union: Redress Sourcebooks (Amendments) Instrument 2019 respectively	R	<p>(4) determining the <i>quantification date</i> in respect of, a <i>pre-IP completion day incoming EEA firm</i>, or the successor of such a firm.</p> <p>The amendments and deletions referred to in column (2) are disapplied, in relation to a <i>claim</i> against a <i>pre-IP completion day incoming EEA firm</i> in respect of any act or omission by that firm before <i>IP completion day</i>, to the extent needed to enable the <i>FSCS</i>:</p> <p>(1) to determine whether, had the <i>claim</i> been made immediately before <i>IP completion day</i>, the <i>FSCS</i> would have paid compensation in respect of it; and</p> <p>(2) if so, to pay compensation in respect of that <i>claim</i>.</p> <p>For these purposes, where an amendment or deletion to a defined term is disappplied under this <i>rule</i>, that defined term has the meaning it had immediately before <i>IP completion day</i>.</p>	From <i>IP completion day</i> indefinitely	<i>IP completion day</i>
47	Amendments introduced to <i>COMP</i> by the Exiting the European Union: Temporary Permission and Financial Services Contracts Instrument 2019	R	<p>The amendments referred to in column (2) do not apply:</p> <p>(1) in relation to a <i>claim</i> against a <i>TP firm</i>, or against a successor of a <i>TP firm</i>, that was <i>in default</i> before <i>IP completion day</i>; or</p> <p>(2) to any acts or omissions before <i>IP completion day</i> that give rise to a <i>claim</i> against a <i>TP firm</i>, or against a successor of a <i>TP firm</i>, after <i>IP completion day</i>;</p> <p>but nothing in limb (2) of this <i>rule</i> shall limit the ability of the <i>FSCS</i> to pay compensation in respect of a <i>claim</i> against a <i>TP firm</i> or a successor of a <i>TP firm</i>, where it is a <i>relevant person</i> for a reason other than because it is a <i>TP firm</i>.</p>	From <i>IP completion day</i> , indefinitely	<i>IP completion day</i>
48	Amendments introduced by the Funeral Plans Instrument 2021	R	The changes referred to in (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i> , or against a successor, that was in default before [date] nor, in relation to <i>claims</i> in connection with <i>protected funeral plan business</i> , where the relevant act or omission occurs before 29 July 2022.	From 29 July 2022 indefinitely	29 July 2022



# Compensation

## Schedule 1

### Record-keeping requirements

Sch 1.1 G

1.

The aim of the guidance in the following table is to give the reader a quick overall view of the relevant record keeping requirements. The Rules listed below apply only to FSCS (the scheme manager).
2.

It is not a complete statement of those requirements and should not be relied upon as it were.

Sch 1.2 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
FEES 6.3.14 R	FSCS funding	Full details of the movement of funds within sub-schemes.	Ongoing re-requirement.	N/A
[deleted]				
[deleted]				



## Compensation

### Schedule 2 Notification requirements

#### Sch 2.1 G

1. The aim of the guidance in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting. In all cases, other than those concerning the Transitional Provisions, the notification rules in *COMP* apply only to the *FSCS* (the scheme manager).
2. It is not a complete statement of those requirements and should not be relied on as if it were.

#### Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
COMP 2.2.5G	Annual Report	Not specified in <i>COMP</i> - see Memorandum of Understanding (MoU) between the <i>FCA</i> and the <i>FSCS</i>	End of Financial Year	Not specified in <i>COMP</i> (see MoU)
COMP 2.2.7R	Default of <i>relevant person</i> or <i>successor</i>	Not specified - although the <i>FSCS</i> must take appropriate steps to ensure claimants are informed about how they can claim compensation	default of a <i>relevant person</i> or <i>successor</i>	Not specified - but as soon as practicable after determining default
FEES 6.2.1AR	Right to exemption for specific costs and compensation costs levy	Notice that firm does not conduct business that could give rise to a claim on the <i>FSCS</i> and has no reasonable likelihood of doing so	If it does not, or if it ceases to, conduct business with persons eligible to claim on the <i>FSCS</i> , unless it has already given such notice	None specified though exemption generally only takes effect from the date of receipt of notice by the <i>FSCS</i>
FEES 6.2.4 R	Loss of right to seek exemption from specific costs & com-	Statement that firm no longer qualifies for exemption because	Firm loses the right to claim the exemption.	As soon as reasonably practicable

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
	pensation costs levy	it carries on business with persons eligible to claim on FSCS		
FEES 6.5.13 R	Levy base for participant firm	The contribution groups to which the participant firm belongs. The total amount of business (measured in accordance with the appropriate tariff bases, which it conducted as at 31 December of the previous year)	The end of the calendar year (the occasion of 31 December every year beginning with 31 December 2001)	By end February or the date requested by the <i>FCA</i> where the <i>firm</i> becomes a <i>participant firm</i> part way through the <i>financial year</i>
FEES 6.7	Participant firms compensation levy for the financial year	Amount of levy payable by the participant firm	The decision by the FSCS that it must impose a levy	30 days before the levy is payable

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed



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## Compensation

### Schedule 3 Fees and other required payments

#### Sch 3.1 G

The *rules* in FEES 6 give FSCS (the scheme manager) the power to raise levies on participant *firms* in order to meet its expenses. The *rules* in FEES 6 do not specify the amount of any levy but do specify how a participant *firm's* share of a levy is to be calculated and any limit on the amount leviable by the FSCS is a particular period.





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## Compensation

### Schedule 4 Powers Exercised

**Sch 4.1 G**  
[deleted]

**Sch 4.2 G**  
[deleted]

**Sch 4.3 G**  
[deleted]



Compensation

Schedule 5  
Rights of action for damages

Sch 5.1 G

1.

The table below sets out the rules in *COMP*, contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.
2.

If a "yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under Section 138D unless a "yes" appears in the column headed "Removed". A "yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under Section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.
3.

In accordance with the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256) a "private person" is:

i

any individual, except when acting in the course of carrying on a *regulated activity*; and

ii

any *person* who is not an individual, except when acting in the course of carrying on business of any kind;

but does not include a government, local authority or an international organisation.
4.

The column headed "For other person?" indicates whether the rule is actionable by a *person* other than a *private person*, in accordance with those Regulations. If so, an indication of the type of person by whom the rule is actionable is given.
5.

The vast majority of rules in *COMP* are rules to which the *FSCS* is subject. No right of action arises under section 138D for breach of these rules, as the *FSCS* is not an *authorised person*.

Sch 5.2 G

Chapter/Appendix		Section/ Annex	Paragraph	For private person?	Removed	For other person?
COMP 1		5	8	No	Yes - COMP 1.5.12R	No



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## Compensation

### Schedule 6 Rules that can be waived

#### Sch 6.1 G [deleted]

#### Sch 6.1A G

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*.

