

Financial Services Compensation Scheme: changes to the Compensation sourcebook

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We are asking for comments on this Consultation Paper by 29 February 2016.

You can send them to us using the form on our website at:
www.fca.org.uk/your-fca/documents/consultation-papers/cp15-40-response-form.

Or in writing to:

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We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

You can download this Consultation Paper from our website: www.fca.org.uk. Or contact our order line for paper copies: 0845 608 2372.

Abbreviations used in this document

CBA	Cost benefit analysis
COMP	Compensation sourcebook
CP	Consultation Paper
FCA	Financial Conduct Authority
FSA	Financial Services Authority
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
PII	Professional indemnity insurance
PPF	Pension Protection Fund
PRA	Prudential Regulation Authority
SAR	Special Administration Regime
SIPP	Self-invested personal pension
SSAS	Small self-administered scheme
TPR	The Pension Regulator

1. Overview

Introduction

- 1.1** The Financial Services Compensation Scheme (FSCS) is the UK's statutory compensation fund of last resort. It can provide compensation to customers of authorised financial services firms when a firm is unable to, or likely to be unable to, meet the costs itself. A well-funded, sustainable and effective compensation scheme is vital for consumer confidence, from which all financial services firms benefit. The FSCS is funded by levies on firms authorised by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA).
- 1.2** This Consultation Paper (CP) proposes some relatively minor changes to some of the rules in our Compensation sourcebook (COMP) that govern the operation of the FSCS. We propose:
- an increase in the non-investment (general and pure protection) insurance mediation compensation limit in relation to some types of insurance from 90% to 100%
 - changes to the eligibility of occupational pension schemes trustees to claim on the FSCS, and
 - changes to make express reference to how the compensation rules apply where a successor firm is in default or to assist the FSCS in handling claims.
- 1.3** It is important to note that there are a number of other current FCA initiatives and developments relating to the FSCS. We set these out below:
- we made a public commitment to review the funding model again in 2016
 - the funding review will include a review of the FSCS compensation limits to see whether they remain appropriate in the light of developments in recent years
 - in October 2015¹, we issued a CP on pension reforms that asked for views on the degree of FSCS protection for consumers who invest their pension savings in non-insurance based products, where the compensation limit is currently £50,000, rather than via a life insurance contract, where the limit is 100% with no cap
 - the Financial Advice Market Review (FAMR)² will publish recommendations in early 2016 including in relation to the absence of a longstop limitation period for complaints referred to the Financial Ombudsman Service and our review of the FSCS funding model will take into account these recommendations where relevant.

¹ CP15/30 Pension reforms – proposed changes to our rules and guidance, October 2015.

² HMT Treasury FCA Financial Advice Market Review Call for input: www.fca.org.uk/your-fca/documents/famr-cfi

1.4 We are proposing to make these changes now, ahead of the review of the FSCS funding model and compensation limits in 2016, because the changes have no impact on that review, will provide benefits for consumers and for the FSCS and will, we anticipate, have minimal cost implications for levy payers. We want to consult now on:

- changes to the insurance mediation compensation limits, because consumers at the moment are entitled to different levels of compensation for similar types of claim depending on whether the insurance provider or intermediary fails. We are proposing to remove that discrepancy
- extending eligibility to claim on the FSCS to the trustees of money purchase occupational pension schemes with large employers so that members of these schemes are entitled to the same protection from the FSCS as members of schemes with small employers
- changes to make express reference to how the compensation rules apply where a successor firm is in default because the Financial Services and Markets Act 2000 (FSMA) now requires the FCA to make rules in relation to this, and
- changes to assist the FSCS in handling claims so that the FSCS and consumers have the benefit of these changes.

Who does this consultation affect?

1.5 You should read this if you are:

- an authorised financial services firm
- a trade body representing authorised financial services firms
- a body representing consumers, or
- a person that has assumed responsibility for the liabilities of an authorised financial services firm.

Is this of interest to consumers?

1.6 This consultation will be of interest to consumers and representatives of consumers because it proposes changes to the compensation arrangements available to them.

Context

1.7 Under FSMA and secondary legislation³, the PRA has rule-making responsibilities for compensation in relation to deposits, dormant accounts and contracts of insurance.⁴ The FCA

³ The Financial Services and Markets Act 2000 (Financial Services Compensation Scheme) Order 2013, SI 2013/598.

⁴ They also have responsibility for compensation in respect of the activity of managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's, as well as claims in respect of the activity of arranging by Lloyd's of deals in contracts of insurance written at Lloyd's.

has rulemaking responsibility for FSCS compensation in relation to investment business (both provision and intermediation), home finance intermediation, non-investment (general and pure protection⁵) insurance intermediation, and other activities that may be brought within the scope of the FSCS.

- 1.8** The FCA's statutory objective of securing an appropriate degree of consumer protection is central to this CP. In particular, we want to ensure that FSCS protection remains appropriate, and assist the FSCS in handling claims. An effective compensation scheme will also support our market integrity and competition objectives.

Summary of our proposals

- 1.9** We are proposing the following changes to COMP:
- increases to the insurance mediation compensation limit from 90% to 100% for certain claims in relation to:
 - pure protection contracts
 - professional indemnity insurance, and
 - general insurance claims arising from the death or incapacity of the policyholder owing to injury, sickness or infirmity
 - changes regarding the eligibility of the trustees of occupational pension schemes to claim on the FSCS:
 - trustees of occupational pension schemes of large employers providing money purchase benefits would be eligible to claim on the FSCS, and
 - trustees of small self-administered schemes (SSASs) of large employers providing defined benefits would no longer be eligible to claim on the FSCS
 - other changes to make express reference to how the compensation rules apply where a successor firm is in default or to assist the FSCS in handling claims.

Equality and diversity considerations

- 1.10** We have assessed the likely equality and diversity impacts of the proposals, and do not believe they give rise to discrimination, nor raise any issues in relation to the public sector equality duty contained in the Equality Act 2010. However, we would welcome your comments.

⁵ A pure protection contract is, broadly, a long-term insurance contract under which the benefits are payable only on death or in respect of incapacity due to injury, sickness or infirmity. The contract has no surrender value, or only a single premium is payable and the surrender value does not exceed that. The contract cannot be changed in a way which would result in it ceasing to comply with these conditions.

Next steps

What do you need to do next?

- 1.11** We want to know what you think of our proposals. Please send us your comments by 29 February 2016 using the online response form on our website, or by writing to us using the contact details on page 2.

What will we do?

- 1.12** We will consider your feedback and finalise our rule changes. We intend to publish our rules in a Policy Statement in Q2 2016.

Other ways to engage

- 1.13** Your views are important to us. If you would like to speak to us to discuss your views, please contact us using the contact details set out on page 2.

2. Changes to the Compensation sourcebook

Introduction

- 2.1** In this chapter we ask for views on the changes we are proposing to the rules in COMP.
- 2.2** **Non-investment (general and pure protection) insurance mediation limit**
We are proposing to increase FSCS protection from 90% to 100% for non-investment (general and pure protection) insurance mediation claims related to circumstances analogous to the failure of a provider (in cases where a provider fails, PRA rules provide for 100% of the claim to be met by FSCS). These circumstances are where an action by the intermediary led to the consumer's claim not being paid – usually either because the intermediary had failed to pass a premium on to the insurer, had failed to pass claim payments on to the customer, or had otherwise failed to do something which meant that a policy issued by an authorised insurer was not in force. The increase from 90% to 100% would apply to the mediation of:
- pure protection contracts
 - professional indemnity insurance (PII), and
 - general insurance claims arising from the death or incapacity of the policyholder owing to injury, sickness or infirmity.
- 2.3** Until 3 July 2015, the FSCS compensation limits for life and general insurance provision were 90% of the claim (without any cap on the amount), and 100% in the case of compulsory insurance (such as motor insurance). Those limits had been in place for 40 years, apart from the period from 2001 to 2009 when there was a 100% band of cover for the first £2,000 of each insurance claim.
- 2.4** Prior to 2013, these percentage-based limits – now contained in PRA rules but originally set in the Policyholders Protection Act 1975 – reflected the Financial Services Authority's (FSA) view that in the general insurance area, consumers would be significantly disadvantaged if any kind of absolute limit were imposed on the compensation receivable. Where insurance was compulsory, the FSA considered it desirable that 100% cover was available, since, in many cases, the affected parties are not the policyholders.
- 2.5** The 90% limit for non-compulsory insurance reflected one of the FSA's fundamental objectives in structuring the compensation arrangements: that they should provide substantial, although not in all cases complete, cover for the loss incurred. The 90% limit was intended to cover most of a consumer's loss, while still providing some incentive for the consumer to carefully consider the provider they selected.

- 2.6** The limits for mediation of general insurance and pure protection contracts mirrored the limits for insurance. So consumers received the same level of protection whether the insurer or intermediary failed.
- 2.7** In October 2014⁶, the PRA consulted on proposed changes to the limits for insurance provision to more closely align the existing compensation rules with the PRA's statutory objectives. Following that consultation, the PRA decided to increase the FSCS compensation limits from 90% to 100% for all long-term insurance, all PII, and general insurance claims arising from death or incapacity owing to injury, sickness or infirmity, with effect from 3 July 2015.
- 2.8** The FCA's proposed changes in relation to mediation of pure protection contracts, PII and general insurance claims arising from the death or incapacity of the policyholder owing to injury, sickness or infirmity will ensure that consumers will receive the same protection from the FSCS, whether the insurer or intermediary fails.
- 2.9** We do not propose at this time to provide increased cover for claims made in respect of misselling because claims arising from misselling are not analogous to those that stem from the failure of a provider.
- 2.10** Nor are we proposing changes to the limit for mediation of other long-term insurance⁷ (that is, not pure protection), where the current limit is £50,000.

Q1: Do you agree with our proposal to increase the compensation limit to 100% for some types of non-investment insurance mediation?

Eligibility of occupational pension scheme trustees

Money purchase occupational pension schemes with large employers

- 2.11** Currently, the trustees of occupational pension schemes are eligible to claim on the FSCS if, for example, a financial services firm holds client money or assets belonging to the scheme and is unable to return it, provided the sponsoring employer of the scheme is not large, as defined in our rules. The size of the employer is not currently relevant in the case of a small self-administered scheme. We discuss this in paragraphs 2.22 - 2.25 below.
- 2.12** Where the employer is a company, it will be large if it meets two of the following criteria:
- turnover of more than £6.5m
 - balance sheet total of more than £3.26m
 - more than 50 employees.⁸
- 2.13** Where the employer is a partnership or an unincorporated association, it will be considered large if it has net assets of more than £1.4m.
- 2.14** Where the pension scheme provides money purchase benefits, the FSCS is required to look through the trustees and treat each scheme member as having a claim (up to the £50,000 limit for each member in the case of investment claims). Where a scheme provides defined benefits

⁶ Policyholder Protection – CP21/14, October 2014. Policyholder protection – PS5/15, April 2015.

⁷ For example, mediation of endowment policies, whole life policies and pension policies.

⁸ The criteria in the first two bullet points, set out in section 382 Companies Act 2006, have been amended by SI 2015/980 to £10.2m and £5.1m respectively. For all companies, the changes will apply to financial years beginning on or after 1 January 2016, although companies may choose to also apply the changes to financial years beginning on or after 1 January 2015.

– e.g. a final salary scheme – the FSCS is not required to look through the trustees, but can make a single payment of compensation to the trustees (up to the £50,000 limit).

Table 1

	Money purchase scheme	Defined benefits scheme
Number of scheme members	40	40
Maximum compensation payable for total investment claims against a failed firm	40 x £50,000	1 x £50,000

2.15 However, in the case of a defined benefits scheme, the employer is required under pensions legislation to stand behind the scheme and make good any funding gap. Further, if the employer is insolvent, the Pension Protection Fund (PPF) can provide protection to scheme members.

2.16 The PPF was one of the measures put in place under the Pensions Act 2004 in response to a series of high-profile cases in which defined benefit pension schemes had wound up with insufficient assets to meet their pension commitments. It is funded from the assets of schemes transferred to the Fund, investment returns and by annual levy on eligible schemes. The PPF can pay compensation if there is a qualifying insolvency event in relation to the employer and there are insufficient assets in the pension scheme to cover PPF levels of compensation.

2.17 The FSCS and the PPF protection relate to different losses and are payable in different circumstances:

- FSCS: a single claim by the trustees of a defined benefit occupational pension scheme in relation to losses arising from the failure of an FCA-authorized firm
- PPF: claims by individual scheme members in relation to the total benefits to which each member is entitled under their defined benefit scheme where the employer is insolvent.

2.18 We are proposing to amend our rules so that trustees of schemes with large employers will be eligible to claim on the FSCS where the benefits are money purchase benefits. This is because it is not clear that the size of the employer is relevant in the case of money purchase benefits, since the employer is not guaranteeing anything. The change would mean that consumers have the same protection, irrespective of the size of the employer.

Master trusts

2.19 Extending eligibility to trustees of all schemes providing money purchase benefits, regardless of the size of the employer, has an additional potential benefit in relation to ‘master trusts’. A ‘master trust’ is an occupational pension scheme set up under trust for the employees of a number of employers: examples are NEST⁹, the workplace pension set up by government especially for auto enrolment, and The People’s Pension. Master trusts are increasingly being used to facilitate auto enrolment, and the numbers of participating employers and scheme members are expected to grow.

2.20 Under a master trust, each scheme member has pension assets that have been built up from the member’s current employment and previous employments with employers who participate in that master trust. It provides benefits to members who are staff of employers who are not connected and where each employer group is not included in a separate section with its own

⁹ The trustee of the NEST scheme, NEST Corporation, is a non-departmental public body accountable to Parliament through the Department for Work and Pensions.

trustees. Master trusts have told us that it will be difficult or impossible to identify which parts of a member's fund relate to employments with which employer. This means that, in practice, it would be difficult to apply the large employer exclusion. Removing this exclusion for schemes providing money purchase benefits, including master trusts, addresses this potential problem.

- 2.21** However at present large master trusts generally have a sole scheme investment in the form of a long-term insurance contract. Under PRA rules, trustees of these schemes are eligible to claim on the FSCS in relation to these insurance contracts, irrespective of the size of the employer.

Q2: Do you agree with our proposal that trustees of occupational pension schemes of large employers providing money purchase benefits should be eligible to claim on the FSCS?

Small self-administered schemes (SSAs)

- 2.22** A SSAS is a type of employer-sponsored occupational pension scheme generally set up to provide retirement benefits for a small number of a company's directors and/or senior staff. The number of members is generally limited to 12. SSAs predominantly provide money purchase benefits.

- 2.23** Under our rules, trustees of SSAs are eligible to claim on the FSCS where the sponsoring employer is large. This differs from the position of trustees of other occupational pension schemes with large employers as they are not eligible to claim.

- 2.24** We propose to amend our rules so that the trustees of SSAs providing defined benefits are treated in the same way as the trustees of other occupational pension schemes in relation to eligibility to claim on the FSCS. Where schemes provide money purchase benefits, the trustees of SSAs will continue to be eligible to claim, irrespective of the size of the employer. Following our other proposed change (paragraph 2.18), trustees of other occupational pension schemes providing money purchase benefits with large employers will become eligible to claim.

- 2.25** However, where the scheme provides defined benefits and the employer is large, we propose that the trustees will no longer be eligible to claim. This is a reduction in protection but is already the position for trustees of other occupational pension schemes providing defined benefits with large employers.

Q3: Do you agree with our proposal that trustees of SSAs of large employers providing defined benefits should no longer be eligible to claim on the FSCS?

Successor firms

- 2.26** When the business of a regulated firm (a 'predecessor firm') passes to a new firm, we need to be sure that the interests of consumers in respect of that past business are appropriately protected. One of the ways we achieve this protection is by requiring that the new firm enters into a deed¹⁰, which provides that it is jointly and severally liable with the predecessor firm for the acts and omissions of the predecessor firm in carrying out regulated activities and services. In these circumstances, the new firm thus accepts responsibility for the past business of the predecessor firm and accepts that the FCA, the Financial Ombudsman Service and the FSCS and consumers, may (but need not) treat the regulated activities and services carried on by the predecessor firm as if these had been carried on by the new firm.

¹⁰ This is included in the Change of Legal Status application pack: www.fca.org.uk/your-fca/documents/forms/change-of-legal-status-application-and-cancellation-form.

- 2.27** Where a firm accepts responsibility for the acts or omissions of a predecessor firm (whether by deed or other means), and the successor is authorised, such claims currently fall within the scope of the FSCS.
- 2.28** FSMA¹¹ now expressly requires the FCA to make rules in relation to FSCS protection, where persons ('successor firms') who have assumed responsibility for liabilities arising from acts or omissions of predecessor firms¹² are unable, or likely to be unable, to satisfy claims against them.
- 2.29** We are therefore proposing rule changes to make it clear that claims against a successor firm, in respect of liabilities arising from the acts or omissions of a predecessor firm, fall within the scope of the FSCS. The rules will apply to a claim on the FSCS in respect of a successor firm, whether or not that firm is authorised by the FCA or the PRA¹³, provided that the claim is based on acts or omissions of the predecessor firm, which occurred prior to the transfer under which liabilities were assumed by the successor firm. Claims that are based on the acts or omissions of the successor firm after the transfer of liabilities will only be covered by the FSCS if the successor firm itself is authorised by the FCA or the PRA (assuming that all the other conditions are satisfied). However, our expectation is that, in practice, a successor firm that has taken over the liabilities of a predecessor firm will be authorised. The changes clarify the application of the current rules, except for the proposed extension to unauthorised successor firms. The successor rule changes apply in respect of unauthorised successor firms where the default occurs on or after the date the rules come into force and the transfer of liabilities took place on or after 1 April 2013.

Table 2: how the proposed rules apply to successors

	Successor firm authorised	Successor firm not authorised
Acts/omissions of the predecessor firm before the transfer	Claims against the successor firm are within the scope of FSCS	Claims against the successor firm will be within the scope of FSCS
Acts/omissions of the predecessor firm after the transfer¹⁴	Claims against the successor firm are not within the scope of FSCS	Claims against the successor firm are not within the scope of FSCS
Acts/omissions of the successor firm after the transfer	Claims against the successor firm are within the scope of FSCS	Claims against the successor firm are not within the scope of FSCS

Q4: Do you agree with our proposal to make it clear that claims against a successor firm fall within the scope of the FSCS?

Flexibility for FSCS – Recipient of compensation

- 2.30** Under our rules, the FSCS must pay compensation to the claimant or 'as directed by the claimant'. The requirement to pay compensation to a person who is not the claimant can cause the FSCS difficulties where the FSCS has concerns about whether this person will pass the compensation to the claimant.
- 2.31** We therefore propose to amend the rules so that the FSCS must pay compensation 'to the claimant, or if the FSCS so decides, as directed by the claimant'. This will give the FSCS flexibility not to pay the compensation to a person about whom the FSCS has concerns.

¹¹ Section 213(1)(b), which came into effect from 1 April 2013.

¹² These predecessor firms are firms that were authorised at the time of the act or omission, giving rise to the claim against them.

¹³ FSMA requires the rules to apply where a successor firm is not authorised by the FCA or the PRA.

¹⁴ Claims against the predecessor firm might be within the scope of FSCS.

Q5: Do you agree with our proposal to give the FSCS flexibility with regard to paying compensation to a person other than the claimant?

Shortfalls in client assets

- 2.32** Where a firm is in default, its business may be transferred to another firm. If there is a shortfall in client assets held by the firm in default, the FSCS is required to pay compensation to the firm's individual clients, of whom there may be a large number who have each incurred only a small loss.
- 2.33** We are proposing to amend our rules so that the FSCS can pay compensation for a shortfall in client assets to a firm that takes over the business of a failed firm, instead of potentially having to pay a small amount of compensation to a large number of individual claimants. This will be conditional on the firm agreeing – on such terms as the FSCS thinks fit – to pay, or credit the accounts of, each client that part of the compensation that is due to him. The FSA made a similar change following consultation in 2012¹⁵, in relation to compensation for shortfalls in client money.
- 2.34** This will not increase the compensation that the FSCS pays; it is an operational change to assist the FSCS. It will also assist continuity of operations for clients of investment firms, insurance broking firms, or other firms that hold client assets.

Q6: Do you agree with our proposal regarding compensation for shortfalls in client assets?

Assignment by electronic means

- 2.35** One of the conditions of the FSCS paying compensation is that the claimant may be required to assign their rights against the failed firm and any third parties to the FSCS. This enables the FSCS to claim as a creditor in the insolvency of the firm, or pursue any third parties who may also be responsible for the claimant's loss. This reduces the amount that the FSCS would otherwise have to levy firms.
- 2.36** This assignment of rights is included in the FSCS application form that claimants complete in order to apply for compensation. The FSCS is introducing a new claims-handling system which will give claimants the option to submit their claims for compensation online.¹⁶
- 2.37** We are therefore proposing to amend our rules to make it clear that when a claimant completes an application form and consents to the assignment of his/her rights electronically, this is an effective assignment of his/her rights against the firm and third parties.
- 2.38** This change involves no additional costs. It complements the FSCS's intention to move to online applications for compensation to make the process easier for consumers, and should save claims handling costs for the FSCS (and therefore costs for firms) and speed up the process.

Q7: Do you agree with our proposal regarding assignment by electronic means?

¹⁵ CP12/7 FSCS: changes to the Compensation sourcebook (March 2012); PS12/15, September 2012.

¹⁶ FSCS Annual Report and Accounts 2014/15: www.fscs.org.uk/globalassets/publications/fscs_arac_2015_final_lo_web_version.pdf.

Requiring firms to cooperate with the FSCS

- 2.39** The FSCS often needs assistance and information from other firms in order to assess whether compensation is payable following the failure of a firm. We understand that firms generally cooperate well with the FSCS and provide assistance in a timely way. However, this is not always the case.
- 2.40** We are therefore proposing to make a rule to require firms to cooperate with the FSCS. The rule will be a general requirement to cooperate, not a specific requirement to provide information. However, we hope that it will help ensure that firms place importance on cooperating with the FSCS in a timely way, in order to assist the FSCS in carrying out its statutory functions in assessing claims and paying compensation to consumers where this is due.
- 2.41** We do not think that this will impose significant additional costs on firms, as they are mostly already cooperating with the FSCS.

Q8: Do you agree with our proposal to require firms to cooperate with the FSCS?**Miscellaneous changes**

- 2.42** We have deleted some PRA material from the FCA's Handbook: for example, from COMP 10.2.3R. This material used to be in the PRA's Handbook and it does not form part of the FCA's Handbook.

Annex 1

List of questions

- Q1:** Do you agree with our proposal to increase the compensation limit to 100% for some types of non-investment insurance mediation?
- Q2:** Do you agree with our proposal that trustees of occupational pension schemes of large employers providing money purchase benefits should be eligible to claim on the FSCS?
- Q3:** Do you agree with our proposal that trustees of SSASs of large employers providing defined benefits should no longer be eligible to claim on the FSCS?
- Q4:** Do you agree with our proposal to make it clear that claims against a successor firm fall within the scope of the FSCS?
- Q5:** Do you agree with our proposal to give the FSCS flexibility with regard to paying compensation to a person other than the claimant?
- Q6:** Do you agree with our proposal regarding compensation for shortfalls in client assets?
- Q7:** Do you agree with our proposal regarding assignment by electronic means?
- Q8:** Do you agree with our proposal to require firms to cooperate with the FSCS?
- Q9:** Do you agree with our cost benefit analysis for the changes to the Compensation sourcebook?

Annex 2

Cost benefit analysis

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish 'an analysis of the costs, together with an analysis of the benefits', which will arise if the proposed rules are made. It also requires us to include estimates of those costs and benefits, unless they cannot reasonably be estimated or it is not reasonably practicable to produce an estimate.
2. In the following paragraphs, we assess the costs and benefits of the proposals relating to:
 - non-investment insurance mediation compensation limit
 - eligibility of occupational pension scheme trustees
 - successors firms
 - flexibility for FSCS – recipient of compensation
 - shortfalls in client assets
 - assignment by electronic means
 - requiring firms to cooperate with the FSCS.

Costs

3. There will be no significant increase in costs to the FCA or the FSCS as a result of most of the proposals but some of the proposals may increase the FSCS's management expenses; we consider these below.

The only proposals that are expected to have a direct impact on the size of the compensation costs met by firms are: the increase in the compensation limit for non-investment insurance mediation; and the extension of eligibility to claim on the FSCS to trustees of money purchase occupational pension schemes with large employers. These are considered in more detail below.

Non-investment insurance mediation

4. While we believe that the increases in limits are likely to result in increases in costs, we also believe that the increases will not be significant. According to FSCS estimates, claims of the type that are potentially affected by the proposed rule changes constitute a tiny fraction of the total number of claims (31 out of over 93,000), in respect of insurance mediation received over the past five years. The total cost to the FSCS of these claims was approximately £0.2m – a fraction of the total paid on insurance mediation claims in that period (£266m). At the same time, we cannot rule out a scenario in which a failure causes a significant number of relevant claims to arise. This assumption relies on FSCS claims data in a period where most general insurance intermediation claims were for payment protection insurance (PPI), and the basis for most of these claims was misselling, where the limit will remain 90% in future. We propose

to increase the limit only in circumstances where an action by the intermediary led to the consumer's insurance claim not being paid.

5. It is worth noting that if we assume that in most instances where the FSCS pays out, most or all of the liabilities of failed firms are covered by the FSCS, then moving from 90% to 100% will increase FSCS payments in these cases by, at most, 11%. So, if history is an analogue for future failures, compensation payments may increase by around £22,000 over five years as a result of our proposed change.
6. However, in a scenario where firms that fail have assets to cover the first 90% of their liabilities (which may be unlikely in practice), then increasing the limit to 100% could significantly increase FSCS payments in respect of these firms (from zero to 10% of the total liability) and potentially mean a proportionately greater increase in cost to the FSCS. We have sought to derive some form of estimate in this regard, but there is no data available to support any reasonable assumption.

Eligibility of occupational pension scheme trustees

7. Extending eligibility to claim on the FSCS to trustees of money purchase occupational pension schemes with large employers will lead to an increase in the cost of compensation, and related management expenses, paid by the FSCS. This will be met by firms – in particular, firms in the investment intermediation funding class at the time of a relevant FSCS levy.
8. The level of increase in compensation costs will depend on a number of factors, including: the number of members of schemes with large employers who have suffered loss as a result of the failure of an authorised firm; and the loss suffered by each member. Around 2% of employers in the UK are large, as defined in our rules.¹⁷ Large employers sponsor a total of 1,280 occupational pension schemes¹⁸ and the total number of members of these schemes is 4,608,000. Under our proposals, each of these members would, in principle, be eligible to claim compensation from the FSCS if they suffered loss following the failure of a firm.
9. However, in recent years, the FSCS has paid relatively insignificant amounts of compensation for investment claims to members of occupational pension schemes providing money purchase benefits. The table below shows the total compensation paid by the FSCS for loss of client money and assets to members of these schemes, in the case of investment firms covered by the Special Administration Regime (SAR)¹⁹, in the period February 2011²⁰ to May 2015. It also shows the total number of claims paid for negligence and the approximate compensation paid over a six-year period. We understand that most negligence claims relate to self-invested personal pensions (SIPPs) rather than occupational pension schemes. These claims are not affected by our proposal as there is no eligibility exclusion relating to the size of an employer in the case of personal pensions (including SIPPs).

¹⁷ Estimated, using significant assumptions, from Office for National Statistics (ONS) data.

¹⁸ Estimated, using significant assumptions, from The Pensions Regulator data. The schemes are either pure money purchase schemes or hybrid schemes (i.e. schemes that provide both defined benefits and money purchase benefits).

¹⁹ The SAR was introduced to improve the effective resolution of large and complex investment firms.

²⁰ The Investment Bank Special Administration Regulations 2011 came into force in February 2011.

Table 3

	Amount	Number of schemes to which payments were made for their members
Client money and assets	£481,290 ²¹	23
Negligence	£6m	161

10. There is evidence²² that trustees of large schemes are more compliant with pensions legislation (which includes requirements relating to scheme investments) than trustees of small schemes. For this purpose, large schemes are those with 1,000 or more members. A large scheme may or may not be sponsored by a large employer, as defined in our rules, so we are using a large scheme as a proxy for a scheme of a large employer. Accordingly, this evidence can only be regarded as indicative of the position. However, it might support a view that trustees of schemes with large employers would make proportionately fewer investment claims on the FSCS than trustees of schemes with small employers.
11. We consider that the requirements relating to investments in pensions legislation and in The Pension Regulator's (TPR) code of practice²³, combined with the evidence that large schemes are more compliant than small schemes, should reduce claims on the FSCS to some extent. However, no amount of care on the part of trustees or other investors can entirely avoid the risk of loss, particularly in the case of fraud. If a large scheme did suffer a significant loss which constituted a claimable event (e.g. loss of client money or assets), then the impact could be significant given that the sums invested overall are likely to be larger.
12. We estimate, with some significant assumptions, the increase in cost as between £640,000 and £5m a year. Both estimates are based on the FSCS compensation paid to trustees of these schemes in the past (see Table 3) and on TPR data.²⁴ The £640,000 estimate is based on the assets held by schemes, whereas the £5m estimate is based on numbers of scheme members.
13. The FSCS's management expenses will also increase as the FSCS will need to handle a larger number of claims. We estimate that there are 1,280 large schemes providing money purchase benefits whose trustees will become eligible to claim on the FSCS. The FSCS's costs for handling a complex investment claim, which would include a claim from the trustees of a money purchase occupational pension scheme, are around £563 (excluding VAT). There were 22 claims by small employers' schemes²⁵ for client money and assets during the period February 2011 to May 2015, and 161²⁶ negligence claims by these schemes over a six-year period. If we assume the ratio of claims to schemes for large claims is the same as for small schemes, then there will be on average just over one claim per year, at a cost of £640 per year.
14. However, there could be additional claims in the future as automatic enrolment aims to increase private pension saving. Once fully implemented, automatic enrolment aims to increase the number of individuals newly saving or saving more in a workplace pension²⁷ by around nine million, generating between £14bn and £16bn a year more in workplace pension saving by

21 Includes payments to members of one Small Self-Administered Scheme of £200,000.

22 The Pensions Regulator Defined Contribution trust-based pension scheme quality features – A summary report on the 2015 research survey Prepared for The Pensions Regulator by OMB Research.

23 www.thepensionsregulator.gov.uk/docs/code-13.pdf.

24 Table 1.2 in: www.thepensionsregulator.gov.uk/docs/section-one-schemes-2015.xlsx. Table 3.1 in: www.thepensionsregulator.gov.uk/docs/section-three-finances-2015.xlsx.

25 Excluding claims by SSASs.

26 This may include SSASs and therefore be an over-estimate.

27 Any pension scheme provided as part of an arrangement made for the employees of a particular employer. It can include Stakeholder Pension schemes and Group Personal Pension schemes.

2020²⁸. Master trusts, which have existed for many years, are now being used to facilitate auto-enrolment, with some of these large and expected to grow.

15. Removing eligibility to claim on the FSCS from trustees of SSAS providing defined benefits with large employers will be a reduction in FSCS cover and, as such, will reduce costs (of up to £50,000 for the total claims by the trustees of a SSAS against each authorised firm that fails). Scheme members will continue to benefit from the requirement on employers to fund the scheme and the protection provided by the PPF. These employers will incur an additional cost (of up to £50,000). The impact on the members of the scheme, considering that the trustees could only have ever claimed £50,000 in total, will not be significant. There are few schemes that are likely to claim, and if one were to do so, the claim (and so the cost to employers and cost saving for firms) would be limited to £50,000.

Successor firms

16. We do not consider that the changes in relation to successor firms will increase costs because the rules simply make it clear that claims against a successor firm based on the acts or omissions of a predecessor firm fall within the scope of the FSCS. The rules also extend protection to cases where a successor firm is not authorised by the FCA or the PRA. However, our expectation is that, in practice, a successor firm that has taken over the liabilities of a predecessor firm will be authorised by the FCA or the PRA, so we do not expect there to be an increase in costs.

Flexibility for FSCS – recipient of compensation

17. We do not consider that our proposal to give the FSCS flexibility in relation to the recipient of compensation will increase costs.

Shortfall in client assets

18. Our proposal relating to compensation for shortfalls in client assets will not increase the compensation that the FSCS pays. However, it may result in the FSCS paying compensation earlier and this would result in a short term increase in costs for levy-paying firms. This would either be due to an earlier levy, or due to a loss of interest on credit balances held by the FSCS. Currently, not much interest is earned by the FSCS on credit balances, but this might change.

19. We consider that any additional costs are unlikely to be significant, but we do not think that the costs can reasonably be estimated.²⁹ This is because the costs will depend: on the number of occasions on which the FSCS pays compensation under this proposal; the amount of compensation paid; the extent to which the FSCS pays the compensation earlier than if it had made payments to individual claimants; and the level of interest received by the FSCS on credit balances at that time. The FSCS has not paid compensation for a shortfall in client money to a firm that has taken over the business of a failed firm since we introduced this option for the FSCS in September 2012.

Assignment by electronic means

20. This rule change involves no additional costs. It complements the FSCS's intention to move to online applications for compensation to make the process easier for consumers, and should save claims handling costs for the FSCS (and so costs for firms) and speed up the process.

Requiring firms to cooperate with the FSCS

21. The additional compliance costs to firms from dealing with the FSCS in an open, cooperative and timely way are not considered to be significant because most firms do so already. We are

²⁸ DWP, September 2015.

²⁹ If the costs or benefits that will arise from proposed rules cannot be reasonably estimated, or it is not reasonably practicable to produce an estimate, section 138I of FSMA requires us to include a statement of our opinion and an explanation for it.

proposing to make the rule change as it may encourage other firms to cooperate. However, not knowing the reasons why some firms do not cooperate with the FSCS makes it difficult to determine to what extent the rule change will have the desired outcome.

22. If the rule change results in some firms cooperating with the FSCS, and incurring administrative costs as a result, there will be an increase in costs. However, we consider that the costs for firms of cooperating with the FSCS will not be significant for the reasons outlined above. This is particularly the case where firms are already cooperating with the FSCS, but are just not doing this in a timely manner.
23. The cost incurred by firms if the rule change did result in them cooperating with the FSCS would vary depending on the circumstances. For example, if the cooperation related to the firm providing some information that the FSCS needed in order to assess claims against a firm that had failed, the cost could depend on the volume of information required, and the difficulty in providing the information. The degree of difficulty might depend on whether the firm held the information electronically or had to extract the information manually from files.

Benefits

Non-investment insurance mediation

24. The benefits to consumers from the increase in the compensation limit from 90% to 100% for some types of insurance claim will equal the cost to firms of this increase, as we have set out above. Consumers will also have consistency in levels of compensation regardless of whether an insurer or broker fails.

Eligibility of occupational pension scheme trustees

25. The benefits to members of money purchase occupational pension schemes with large employers of our proposal to extend eligibility to the trustees of these schemes will equal the cost to firms of this extension, as we have set out above. The benefits to firms of the proposal to remove eligibility from trustees of SSASs providing defined benefits with large employers is equal to the additional cost that will be borne by employers sponsoring these schemes, as we have set out above. This change also provides consistent treatment, under our compensation rules, for the trustees of all occupational pension schemes offering defined benefits.

Successor firms

26. The benefit of this rule change is that our rules will make it clear that claims against a successor firm, based on the acts or omissions of a predecessor firm, fall within the scope of the FSCS.

Flexibility for FSCS – recipient of compensation

27. This rule change will help the FSCS handle certain claims more efficiently where the FSCS has concerns about whether a person to whom the FSCS would otherwise pay compensation, as directed by the claimant, will pass the compensation to the claimant. This benefits consumers by reducing the risk that they will not receive the compensation that the FSCS has paid.

Shortfall in client assets

28. This proposal will benefit consumers if it enables the FSCS to pay compensation more quickly. It may also reduce the FSCS's administrative costs, and hence costs for firms. This is because making a single compensation payment to a firm taking over the business of a failed firm will be less costly than paying compensation to a large number of individual claimants. This reduction in costs cannot reasonably be estimated because this will depend on the number of occasions on which the FSCS pays compensation under this proposal, as well as the number of individual claimants to whom the FSCS would otherwise pay compensation. The FSCS has not paid compensation for a shortfall in client money to a firm that has taken over the business of a failed firm since we introduced this option for the FSCS in September 2012.

Assignment by electronic means

29. The benefit of this rule change is that our rules will make it clear that when a claimant completes an application form and consents to the assignment of his/her rights electronically, this is an effective assignment of his/her rights against the firm and third parties, in line with our understanding of the legal position.

Requiring firms to cooperate with the FSCS

30. The benefit of this proposal is that if it results in more firms cooperating with the FSCS, this may enable the FSCS to pay compensation to claimants more quickly. This benefit cannot reasonably be estimated as it depends on a number of factors, including: whether the rule change does lead to this outcome; the value of the compensation the FSCS pays to the consumers following a firm's cooperation; and how much sooner the FSCS is able to pay this compensation.

Q9: Do you agree with our cost benefit analysis for the changes to the Compensation sourcebook?**Impact on mutual societies**

31. We are also required by section 138K(2) of FSMA to state our opinion on whether the proposed rules will have a significantly different impact on mutual societies, as opposed to other authorised persons. We do not consider that the impact on mutuals will be significantly different to the impact on other types of firm.

Annex 3

Compatibility statement

Compatibility with the FCA's General Duties

1. Section 138I(2)(d) of FSMA requires a consultation undertaken by the FCA to include an explanation of the FCA's reasons for believing that making the proposed rules is compatible with its duties under sections 1B(1) and (5)(a). We comment on these below.
2. In discharging its general functions, the FCA must, so far as is reasonably possible, act in a way which (a) is compatible with its strategic objective, (b) advances one or more of its operational objectives (section 1B(1) of FSMA), and (c) has regard to the regulatory principles set out in FSMA (section 1B(5)(a) and section 3B). In addition, the FCA must discharge its general functions in a way which promotes effective competition in the interests of consumers (section 1B(4)).
3. The FCA believes that the proposed changes are compatible with the regulatory principles. In particular, we believe that an appropriate balance has been struck between the need to ensure that consumers are adequately protected should the relevant firm fail, and the need to ensure that the regulatory and financial burden on the firms who pay for the compensation costs of the FSCS are kept to a minimum.
4. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of consumer protection. The role of the FSCS is, in general, to provide compensation to customers of authorised financial services firms that are unable, or likely to be unable, to meet their obligations. A compensation scheme provides a safety net, offering protection to consumers, which in turn leads to greater confidence in their dealings with financial services firms, benefiting all firms and leading to a stronger financial system.
5. The proposal is compatible with the duty to promote effective competition in the interests of consumers. Any levy on firms, as a result of the proposals, will take into account the business volume of the firm levied and, as such, is not likely to disadvantage specific groups of firms (in particular, smaller firms). However, we do not consider that any additional costs for firms will be significant.

Appendix 1

Draft Handbook text

COMPENSATION SOURCEBOOK (AMENDMENT NO 10) INSTRUMENT 2015

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance);
 - (4) section 213 (The compensation scheme); and
 - (5) section 214 (General).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [date] 2015.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Compensation sourcebook (COMP) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Compensation Sourcebook (Amendment No 10) Instrument 2015.

By order of the Board
[date] 2015

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. This text is not underlined.

professional indemnity insurance contract a *contract of insurance* against the risk of the person insured incurring liability to a third party arising out of the insured's business activities.

relevant omission where the *insurance intermediary* has failed to:

- (a) pay monies to an *insurer*; or
- (b) pay monies that it has received from an *insurer*; or
- (c) take steps to cause a *contract of insurance* to be effected by an *insurer*.

successor (in *COMP*) a *person* who has assumed responsibility for liabilities arising from acts or omissions of a *relevant person*.

Amend the following definitions as shown.

claim

- (1) (in *COMP*) a valid claim made in respect of a civil liability;
 - (a) owed by a *relevant person* to the claimant; or
 - (b) owed by a *relevant person* to the claimant and responsibility for which has been assumed by a *successor*; or
 - (c) owed by a *successor* to the claimant as a result of the *successor's* assumption of responsibility for liabilities arising out of the acts or omissions of a *relevant person*.

(2) ...

compensation scheme the Financial Services Compensation Scheme established under section 213 of the Act (The compensation scheme) for compensating *persons* in cases where *authorised persons* and *appointed representatives*, or, where applicable, a *successor* or a *tied agent* of a firm, are unable, or are likely to be unable, to satisfy *claims* against them.

ICD claim

a claim:

- (a) against a *MiFID investment firm* (including a *credit institution* which is a *MiFID investment firm*), whether established in the *United Kingdom* or in another *EEA State* (or, where applicable, a successor of such a firm); and
- (b) in relation to:
 - (i) any *investment services and activities* other than the making of a *personal recommendation*;
 - (ii) the *ancillary service* of safekeeping and administration of *financial instruments* for the account of *clients*, including custodianship and related services such as cash/collateral management;
 - (iii) the firm's inability to repay money owed to or belonging to investors and held on their behalf or the firm's inability to return to investors any instruments belonging to them and held, administered or managed on their behalf, in each case, in connection with the *investment service* of the making of a *personal recommendation* relating to a *financial instrument* in accordance with the legal and contractual conditions applicable.

[**Note:** Article 2(2) of the *Investor Compensation Directive*]

Annex B

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

COMP INTRO 1A Foreword

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

The *Act* requires the *FCA* to make rules establishing a scheme for compensating consumers in cases where: (i) authorised *firms* 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)*. 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 ~~*Financial Services Compensation Scheme Limited*~~ *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*, ~~and to~~ authorised firms and successors.

...

Chapter 6 Relevant persons and successors in default

...

1.1 Application, Introduction, and Purpose

Application

- 1.1.1 G This chapter is relevant to:
- (1) the *FSCS*;
 - (2) *eligible claimants*; ~~and~~
 - (3) *firms*; and

(4) successors.

...

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 ~~*COMP* 16 which deals with disclosure requirements for *firms* that *accept deposits* and *COMP* 17 which deals with systems and information requirements for *firms* that *accept deposits*.~~

...

1.1.7 G The *FSCS* will only pay *claims* if a *firm* or a *successor* is unable or likely to be unable to meet *claims* against it because of its financial circumstances. If a *firm* (or, where applicable, a *successor*) is still trading and has sufficient financial resources to satisfy a *claim*, the *firm* (or, where applicable, the *successor*) will be expected to meet the *claim* itself. This can, for example, be an amount the *firm* agrees with the claimant, or the amount of an *Ombudsman* award from the *Financial Ombudsman Service*.

...

1.1.10A G By making *rules* that allow the *FSCS* to provide compensation at a level appropriate for the protection of retail *consumers* and *small businesses*, the *FCA* enables *consumers* to participate in the financial markets with the confidence that they will be protected, at least in part, should the *relevant person* with whom they are dealing, or a *successor*, be unable to satisfy *claims* against it.

...

1.3 Claimants

...

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

This table belongs to <i>COMP</i> 1.1.3G			
Q1	What do I need to do in order to receive compensation?		
A1	In order to receive compensation:		
	(1)	you must be an <i>eligible claimant</i> ;	<i>COMP</i> 4.2
	(2)	you must have a <i>protected claim</i> ;	<i>COMP</i> 5.2
	(3)	you must be claiming against a <i>relevant person</i> or a <i>successor</i> ;	<i>COMP</i> 6.2.1R
	(4)	where the <i>claim</i> is against a <i>relevant person</i> , the <i>relevant person</i> must be <i>in default</i> ; or	<i>COMP</i> 6.3; <i>COMP</i>

		where the <i>claim</i> is against a <i>successor</i> , the <i>successor</i> must be in default.	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 8.2.3R - COMP 8.2.5R
		It is possible, in certain circumstances, for someone else to make a <i>claim</i> on your behalf.	COMP 3.2.2R
Q2	How much compensation will I be offered?		
A2	This depends on whether your <i>protected claim</i> is:		
	(1)	a claim for a protected deposit or a protected dormant account; or [deleted]	COMP 5.3
	(2)	a claim under a protected contract of insurance; or [deleted]	COMP 5.4
	(3)	a claim in connection with <i>protected investment business</i> ; or	COMP 5.5
	(4)	a claim in connection with <i>protected home finance mediation</i> ; or	COMP 5.6
	(5)	a claim in connection with <i>protected non-investment insurance mediation</i> .	COMP 5.7
		Different limits apply to different types of <i>claim</i> .	COMP 10.2.3R
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)	a claim for a protected deposit or a protected dormant account; or [deleted]	COMP 12.2.1R, COMP 12.3.1R and COMP 12.4.1R
	(2)	a claim under a protected contract of insurance; or [deleted]	COMP 12.2.1R,

			COMP 12.3.2R and COMP 12.4.9R
	(3)	a claim in connection with <i>protected investment business</i> ; or	COMP 12.2.1R, COMP 12.3.5R and COMP 12.4.2R
	(4)	a claim in connection with <i>protected home finance mediation</i> ; or	COMP 12.4.17R
	(5)	a claim in connection with <i>protected non-investment insurance mediation</i> .	COMP 12.4.20R
		Certain types of protected investment business claim require the <i>FSCS</i> to use a particular method of calculation.	COMP 12.4.5R
Q4		What happens if an insurance undertaking is insolvent? [deleted]	
A4		If you have a <i>long-term insurance contract</i> which is not a <i>reinsurance contract</i> with an insolvent <i>insurance undertaking</i>, the <i>FSCS</i> will first try to secure continuity of insurance for you.	COMP 3.3, COMP 11.2.3R and COMP 12.4.11R
		If the <i>FSCS</i> achieves this, you will not necessarily receive any cash, but you will continue to be insured (though possibly with lower benefits than before).	COMP 3.3 and COMP 11.2.3R.
		You will receive cash compensation only if the <i>FSCS</i> cannot secure continuity of insurance cover or the cost of doing so would be unreasonable.	COMP 3.3.1R and COMP 11.2.1R
		If you have a <i>relevant general insurance contract</i> which is not a <i>reinsurance contract</i> with an insolvent <i>insurance undertaking</i>, the <i>FSCS</i> will pay you cash compensation if it is unable to secure continuity of insurance cover or the cost of doing so would be unreasonable.	COMP 3.2.1R and COMP 11.2.3R
		If the <i>insurance undertaking</i> is in "financial difficulties", the <i>FSCS</i> may try to arrange for another <i>insurance undertaking</i> to take over the business, or provide the <i>insurance undertaking</i> with financial	COMP 3.3.3R and COMP 11.2.3R

	assistance to carry on business. If this occurs, you will not receive cash compensation, but your policy will continue (though possibly with lower benefits than before).	
--	--	--

...

After COMP 1.5 insert the following new section. The text is not underlined.

1.6 Cooperation with the FSCS

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

Amend the following as shown.

2.2 Duties of the FSCS

Administering the compensation scheme

...

2.2.2 G The *FSCS* may:

- (1) pay compensation to *eligible claimants* ~~or secure continuity of insurance for *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 ~~the~~ 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, ~~secure continuity of insurance~~, or meet the costs of discharging its functions under this sourcebook.

...

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.

...

Publication of defaults

2.2.7 R The *FSCS* must take appropriate steps to ensure that potential claimants are informed of how they can make a *claim* for compensation as soon as possible

after a determination has been made that a *relevant person* (or, where applicable, a *successor*) is *in default*, whether by the *FSCS* or the ~~*appropriate regulator*~~ *FCA*.

...

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:

...

- (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 whether against the *relevant person* (or where applicable, a *successor*) or against any third party to the *FSCS*, on such terms as the *FSCS* thinks fit; ~~and~~
- (4) ~~in the case of a claim under a protected contract of insurance:~~
 - (a) ~~it is not reasonably practicable or appropriate to make, or continue to make, arrangements to secure continuity of insurance under COMP 3.3.1R; or~~
 - (b) ~~it would not be appropriate to take, or continue to take, measures under COMP 3.3.3R to safeguard policyholders of an insurance undertaking in financial difficulties. [deleted]~~

...

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

...

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

This table belongs to *COMP* 4.2.1R

...	
(4)	Pension and retirement funds, and anyone who is a trustee of such a fund. However, this exclusion does not apply to:
	(a) a trustee of a <i>personal pension scheme</i> or a <i>stakeholder pension scheme</i> (which is not an <i>occupational pension</i>

		<i>scheme</i>); or	
	(b)	a trustee of a small self administered scheme or an occupational pension scheme of an employer which is not a large company, large partnership or large mutual association insofar as members' benefits are <i>money-purchase benefits</i> ; or	
	(c)	<u>where (b) does not apply, a trustee of an occupational pension scheme of an employer which is not a large company, large partnership or large mutual association.</u>	
...			
(7)	<i>Directors of the relevant person (or, where applicable, a successor) in default.</i> However, this exclusion does not apply if:		
	(a)	both of the following apply:	
	(i)	the <i>relevant person (or, where applicable, a successor) in default</i> is a mutual association which is not a <i>large mutual association</i> ; and	
	(ii)	the <i>directors</i> do not receive a salary or other remuneration for services performed by them for the <i>relevant person (or, where applicable, a successor) in default</i> ; or	
	(b)	the <i>relevant person (or, where applicable, a successor) in default</i> is a <i>credit union</i> .	
...			
(9)	<i>Bodies corporate in the same group as the relevant person (or, where applicable, a successor) in default</i> unless that <i>body corporate</i> is:		
	(a)	a trustee of a <i>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)</i> ; or:	
	(i)	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) ;	
	(ii)	(if the claim is with respect to a long-term insurance contract) a small self-administered scheme or, an occupational pension scheme; or	

		(iii)	(if the <i>claim</i> is not with respect to a <i>long-term insurance contract</i>) a <i>small self-administered scheme</i> or an <i>occupational pension scheme</i> of an employer which is not a large company, large partnership or large mutual association; or
	(aa)		<u>(if the claim is with respect to a long-term insurance contract) a trustee of an occupational pension scheme; or</u>
	(ab)		<u>(if the claim is not with respect to a long-term insurance contract), a trustee of:</u>
		(i)	<u>an occupational pension scheme in relation to members' benefits which are money-purchase benefits;</u>
		(ii)	<u>(unless (i) applies) an occupational pension scheme of an employer which is not a large company, large partnership or large mutual association; or</u>
	(b)		carrying on the <i>regulated activity</i> of operating or winding up a stakeholder pension scheme (which is not an <i>occupational pension scheme</i>) or <i>personal pension scheme</i> .
...			
(12)			<i>Persons</i> who, in the opinion of the FSCS, are responsible for, or have contributed to, the <i>relevant person's</i> (or, where applicable, a <i>successor's</i>) default
...			

...

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

...

Protected investment business

- 4.3.9 R A *person* is eligible to claim compensation for claims made in connection with *protected investment business* if, at the date at which the *relevant person* (or, where applicable, a *successor*) is deemed to be *in default*, he:

...

...

5.2 What is a protected claim?

...

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; and
- (6) COMP 5.7.2R.

...

5.7 Protected non-investment insurance mediation

...

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 either *COMP 5.7.2R(2)(a)* or *COMP 5.7.2R(2)(b)* where the claimant was introduced to that intermediary by an intermediary that does not meet the criteria of either *COMP 5.7.2R(2)(a)* or *COMP 5.7.2R(2)(b)*.

...

6 Relevant persons and successors in default**6.1 Application and purpose**

...

Purpose

...

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

...

After COMP 6.3 insert the following new section. The text is not underlined.

6.3A When is a successor in default?

- 6.3A.1 R (1) A *successor* is *in default* if:
- (a) the *FSCS* has determined it to be *in default* under *COMP* 6.3A.2R, *COMP* 6.3A.3R, *COMP* 6.3A.4R, unless the claim is within (b); or
 - (b) (in relation to an *ICD claim* against a *successor* that is a *MiFID investment firm*):
 - (i) the *FCA* has determined it to be *in default* under *COMP* 6.3A.2R; or
 - (ii) 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).
- (2) 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;
 - (2) a determination by the *successor's Home State regulator* that the *successor* 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;
 - (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;

- (5) the approval of a company voluntary arrangement, a partnership voluntary arrangement, or of an individual voluntary arrangement.
- 6.3A.4 R For *claims* arising in connection with *protected investment business*, *protected home finance mediation* or *protected non-investment insurance mediation*, the *FSCS* has the additional power to determine that a *successor* is *in default* if it is satisfied that a *protected claim* exists 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.5 R For the purposes of sections 219(1A)(b) and (d) 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*.

Amend the following as shown.

7 Assignment or subrogation of rights

...

7.2 How does the assignment of rights work?

- 7.2.1 R The *FSCS*:
- (1) ~~must or if the *FSCS* is subrogated automatically to the claimant's rights may make any payment of compensation to a claimant, in respect of a *protected deposit*, conditional on the claimant, in so far as able to do so, assigning the whole of his rights; and~~
- (2) may make any payment of compensation to a claimant in respect of any ~~other~~ *protected claim* conditional on the claimant assigning the whole or any part of his rights;
- whether against the *relevant person* (or, where applicable, a *successor*), or against any third party, or both, to the *FSCS* on such terms as the *FSCS* thinks fit.

...

Electronic Assignment

- 7.2.3AA R (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.
- (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.

...

7.3 Automatic subrogation

...

7.3.2 R The *FSCS*'s powers in this section may be used:

...

- (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*); and/or
- (4) ~~(where the *FSCS* uses its powers to administer the payment of compensation on behalf of, or to pay compensation or make a payment on account or an advance and recover from, a Non-UK Scheme or Other Funder (see *COMP* 15.1.14R)) in respect of all or part of any *protected deposit* which is compensatable by and/or recoverable from the Non-UK Scheme or Other Funder, and the *FSCS* may make different provision for those parts of a *protected deposit* (and references to paying compensation shall be treated as referring to making a payment, making a payment on account or making an advance as appropriate) (for the purposes of this section the terms "Non-UK Scheme" and "Other Funder" have the same meaning as in *COMP* 15.1.14R). [deleted]~~

...

Determinations by the *FSCS*

7.3.4 R ...

- (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.

...

...

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*; ~~and/or~~
- (2) ~~the following actions by the *FSCS* (under *COMP 15.1.14R*):~~
 - (a) ~~administering the payment of compensation on behalf of;~~
~~and/or~~
 - (b) ~~paying and/or making a payment on account of compensation~~
~~from;~~

~~a Non-UK Scheme or Other Funder; [deleted]~~

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 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* 7.3.9R).

- 7.3.9 R The *FSCS* may alternatively or additionally make the actions in *COMP* 7.3.8R(1) and (2) conditional on the claimant assigning or transferring the whole or any part of all such rights as he may have against the *relevant person* (or, where applicable, a *successor*) and/or any third party (including, for the avoidance of any doubt, any Non-UK Scheme or Other Funder) on such terms as the *FSCS* determines are appropriate.

...

7.6 Recoveries: claims other than for protected deposits

...

- 7.6.5 G As an example of the circumstances which *COMP* 7.6.4R is designed to address, take two claimants, A and B.
- (1) Both A and B have a *protected investment business claim* of £60,000 against a *relevant person* (or, where applicable, a *successor*) in default. The *FSCS* offers both claimants £50,000 compensation (the maximum amount payable for such claims under *COMP* 10.2.3R). 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, the *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 £30,000 each from the liquidator, leaving both with a loss of £30,000 to be met by the *FSCS*. Both *claims* would be met in full.

...

...

8.2 Rejection of application for compensation

...

- 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* 8.2.4R or *COMP* 8.2.4AR 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* 8.2.5R applies.

...

- 8.2.5 R For claims made in connection with *protected investment business* or *protected non-investment insurance mediation*, 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.

...

9 Time limits on payment and postponing payment

...

9.2 When must compensation be paid?

...

- 9.2.2 R The *FSCS* may postpone paying compensation if:
- ...
- (2) in the case of a *claim* relating to *protected investment business* which is not an *ICD claim* or a claim relating to *protected home finance mediation*, the *FSCS* considers that the claimant should first exhaust his 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) ~~in the case of a *claim* relating to a *protected contracts of insurance*, the *FSCS* considers that the liability to which the *claim* relates or any part of the liability is covered by another *contract of insurance* with a solvent *insurance undertaking*, or where it appears that a *person*, other than the liquidator, may make payments or take such action to secure the continuity of cover as the *FSCS* would undertake; or [deleted]~~

...

- (6) ~~the *claim* relates solely to a bonus provided for under a *protected contract of insurance* the value of which the *FSCS* considers to be of such uncertainty that immediate payment of compensation in respect of that bonus would not be prudent and a court has yet to attribute a value to such bonus. [deleted]~~

- 9.2.3 R Notwithstanding *COMP* 9.2.2R(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:

...

...

10.2 Limits on compensation payable

...

- 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 £40,000, and a further such *claim* of £20,000, will only receive the £50,000 limit.

10.2.3 Table Limits

This table belongs to *COMP* 10.2.1R

Type of claim	Level of cover	Maximum payment
<i>Protected deposit or protected dormant account</i> ⁴	100% of <i>claim</i>	£85,000 [Note: articles 7(1a) and 7(1b) of the <i>Deposit Guarantee Directive</i>]
<i>Protected contract of</i>	(1) Where the <i>claim</i> is	Unlimited

insurance when the contract is a relevant general insurance contract	in respect of a <i>liability subject to compulsory insurance</i> : 100% of <i>claim</i> ²	
	(2) In all other cases: 90% of <i>claim</i>	Unlimited
Protected contract of insurance when the contract is a long-term insurance contract	At least 90% of <i>claim</i> as determined in accordance with <i>COMP 12</i>	Unlimited
<i>Protected investment business</i>	100% of <i>claim</i>	£50,000
<i>Protected home finance mediation</i>	100% of <i>claim</i>	£50,000
<i>Protected non-investment insurance mediation</i>	(1) where the <i>claim</i> is in respect of a <i>liability subject to compulsory insurance</i> : 100% of <i>claim</i>	Unlimited
	(2) where the <i>claim</i> is in respect of: <u>(a) a relevant omission;</u> and <u>(b) a professional indemnity insurance contract or would be in respect of a professional indemnity insurance contract if the insurance contract had been effected;</u> 100% of <i>claim</i>	<u>Unlimited</u>
	(3) where the <i>claim</i> is: <u>(a) in respect of a relevant omission;</u> <u>(b) in respect of a relevant general insurance contract or would be in respect of a relevant general insurance contract if</u>	<u>Unlimited</u>

	<u>the insurance contract had been effected; and</u> <u>(c) arises from the death or incapacity of the policyholder owing to injury, sickness or infirmity:</u> <u>100% of claim</u>	
	<u>(4) where the claim is in respect of:</u> <u>(a) a relevant omission; and</u> <u>(b) a pure protection contract or would be in respect of a pure protection contract if the insurance contract had been effected:</u> <u>100% of claim</u>	Unlimited
	<u>(25) In all other cases:</u> <u>90% of claim</u>	Unlimited

.....

- 10.2.5 G ~~COMP 12.4.1R and COMP 12.4.4R include~~ includes further limits relating to ~~Deposit Guarantee Directive claims and ICD claims~~ against certain ~~incoming EEA firms~~. These reflect the ~~Deposit Guarantee Directive and Investor Compensation Directive/s Directive~~, under which compensation may be payable by the ~~incoming EEA firm's Home State~~ compensation scheme.

Claims in cases where there is a successor

- 10.2.5A R No claimant shall be eligible to make a claim under the compensation scheme in respect of both the relevant person and a successor in relation to the same loss.

11 Payment of compensation

...

11.2 Payment

- 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* 11.2.2R applies.

...

Form and method of paying compensation

- 11.2.3A R The *FSCS* may pay compensation in any form and by any method (or any combination of them) that it determines is appropriate including, without limitation:

...

- (4) by paying compensation to a *firm*, which makes a *claim* on behalf of its *clients*, if the *FSCS* is satisfied that:
- (a) the business of a *relevant person in default* has been transferred to the *firm*;
 - (b) each *client* has a *claim* against the *relevant person in default* arising out of a *shortfall in client money or safe custody assets* held by the *relevant person in default*;
 - (c) the *clients* in respect of which compensation is to be paid satisfy the conditions set out in *COMP* 3.2.2R(1); and
 - (d) the *firm* has agreed, on such terms as the *FSCS* thinks fit, to pay, or credit the accounts of, without deduction, each *client*, that part of the compensation due to him.

...

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

...

...

12 Calculating compensation

...

12.2 Quantification: general

- 12.2.1A R The amount of compensation payable to the claimant in respect of any type of *protected claim* is the amount of his overall net *claim* against the *relevant person* (or, where applicable, a *successor*) at the *quantification date* and any reference in *COMP* to overall *claim* means "overall net *claim*" ~~or "overall gross *claim*"~~ as appropriate.

...

- 12.2.3 G Where a liability of a *relevant person* (or, where applicable, a *successor*) to an *eligible claimant* could fall within more than one type of *protected claim* (see *COMP* 5.2.1R), for example a *claim* in connection with *money* held by an *MiFID investment firm* that is also a *credit institution*, the *FSCS* should seek to ensure that the claimant does not receive any further compensation payment from the *FSCS* in cases where the claimant has already received compensation from the *FSCS* in respect of that *claim*.

Overall net claim

- 12.2.4 R A claimant's overall *claim* is the sum of the *protected claims* of the same category that he has against a *relevant person* (or, where applicable, a *successor*) *in default*, less the amount of any liability which the *relevant person* or successor, as appropriate, may set off against any of those *claims* (see *COMP* 10.2.2G).

...

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*, 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*.

...

12.3 Quantification date

Protected investment business

...

- 12.3.6 R For a *claim* made in connection with *protected investment business* which is an *ICD claim*, the *quantification date* is the date the *relevant person*, or, where applicable, a *successor*, is determined to be *in default*.

...

12.4 The compensation calculation

Protected investment business: general

...

- 12.4.4 R If the claimant has an *ICD claim* against an *incoming EEA firm* which is ~~an~~ a *MiFID investment firm* (including a *credit institution* which is ~~an~~ a *MiFID investment firm*) or, where applicable, a *successor* of such a *firm*, the *FSCS* must take account of the liability of the *Home State* compensation scheme in calculating the compensation payable by the *FSCS*.

...

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

Trustees, operators of pension schemes and persons winding up pension schemes

...

- 12.6.2A R If a claimant has a *claim*:
- (1) as the trustee of a ~~small self-administered scheme~~ or an *occupational pension scheme* of an employer which is not a *large company*, *large partnership* or *large mutual association* 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 *money-purchase benefits*;

the *FSCS* must treat the member or members (or, where relevant, the beneficiary of any member) as having the *claim*, and not the claimant.

...

TP 1.1 Transitional Provisions Table

(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 [PRA]	<u>COMP 5</u>	<u>R</u>	<u>Protected claims</u>	<u>Indefinitely</u>	<u>Commencement</u>
			(1) <i>A claim for a <u>protected deposit</u> or under a <u>protected contract of insurance</u> includes a <u>claim</u> in respect of an <u>article 9 default</u>, subject to (2) [deleted]</i>		
			(2) <i>A <u>claim</u> must be treated as a <u>claim</u> in relation to a <u>protected contract of insurance</u> under <u>COMP 5.4.5R</u> if the conditions in article 9A or 710(1)(a) (d) of the <u>compensation transitionals order</u> are satisfied. [deleted]</i>		<i>Commencement but on 6 December 2006 for article 9A of the <u>compensation transitionals order</u></i>
			(3) <i>A <u>claim</u> in connection with <u>protected investment business</u> includes a <u>claim</u> in respect of a <u>pending application</u>.</i>		
			(4) <i>Where the <u>claim</u> is in respect of an <u>article 9 default</u> or a <u>pending application</u>, the <u>FSCS</u> must apply the rules of the <u>relevant former scheme</u>, as they applied to the default before <u>commencement</u>, <u>unless (2) applies</u>.</i>		
			(5) <i>The rules of each <u>investment business compensation scheme</u> are amended so that references to the <u>person managing the scheme</u> are replaced by references to the <u>FSCS</u>.</i>		
			(6) <i>The rules of the <u>Friendly Societies Protection Scheme</u> are amended so that:</i>		
			(a) <i>references to the <u>person managing the scheme</u> are replaced by references to the</i>		

				FSCS; and		
				(b) References to functions conferred upon the Friendly Societies Protection Scheme Board are replaced by references to functions conferred upon the FSCS . [deleted]		
			(7)	Where the default occurs after <i>commencement</i> , a <i>claim</i> for a <i>protected deposit</i> includes a <i>claim</i> that arose before <i>commencement</i> in respect of:		
			(a)	a <i>deposit</i> within the meaning of the Banking Act 1987; and		
			(b)	a <i>claim</i> in respect of a protected investment within the meaning of section 27 of the Building Societies Act 1986. [deleted]		
			(8)	Where the default occurs after <i>commencement</i> , a <i>claim</i> in connection with <i>protected investment business</i> includes a <i>claim</i> that could have been entertained under an <i>investment business compensation scheme</i> (provided that the person making the <i>claim</i> has not also made a <i>pending application</i> arising out of the same set of facts).		
2	COMP 13.5 and COMP 13.6	R	Expired			
3	COMP 13.4.6R and COMP 13.6.7R	R	Expired			
4	COMP 13.5.8R	R	Expired			
5 [PRA]	COMP 6.2.1R	R	Credit unions [deleted]	Indefinitely	Commencement	
			In relation to a <i>claim</i> or potential <i>claim</i> referred to in (1) or (2), a <i>relevant person</i> is also any credit union which:			

			(1)	becomes unable, or is likely to become unable, to satisfy <i>claims</i> against it which relate to <i>deposits</i> which were accepted before 2 July 2002; or			
			(2)	(a)	has ceased to have <i>Part 4A permission</i> by virtue of article 3(4) of the Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (SI 2002/704) (failure to comply with a direction to re-apply for <i>Part 4A permission</i>); and		
				(b)	thereafter, becomes unable, or is likely to become unable, to satisfy <i>claims</i> against it which relate to <i>deposits</i> which were accepted on or after 2 July 2002 but before the date on which it ceased to have <i>Part 4A permission</i> .		
6 [PRA]	COMP 6.2.1R	G	In consequence of transitional provision 5R, compensation can be provided: <u>[deleted]</u>				
				(a)	in respect of a credit union which is unable, or likely to become unable, to satisfy <i>claims for protected deposits</i> accepted before 2 July 2002; and		
				(b)	where a credit union has ceased to hold a <i>Part 4A permission</i> (because of failure to comply with a direction to re-apply for the <i>Part 4A permission</i>), for <i>protected deposits</i> accepted on or after 2 July 2002 but before the date at which it ceased to have the <i>Part 4A permission</i> .		
7 [PRA]	COMP 6.2.1R	G	In consequence of transitional provision 5R(1), a credit union becomes a <i>relevant person</i> in respect of <i>deposits</i> accepted before 2 July				

			2002. [deleted]		
8 [PRA]	Amendments introduced by the Compensation Sourcebook (Amendment No.2) Instrument 2003.	R	Provisions and definitions arising out of (2) only apply to defaults, or circumstances giving rise to arrangements made under COMP 3.3.1R or to measures taken under COMP 3.3.3R, occurring after the date in (6) [deleted]	Indefinitely	1 December 2003
9	COMP 13.6.8R	R	Expired		
10	COMP 5.7.1R, COMP 13.4.7R and COMP 13.6.9R	R	[deleted]		
11	FEES 6.3.1R, FEES 6.3.22R, FEES 6.4.8R, FEES 6.4.6R, FEES 6.5.1R and FEES 6.5.6R	R	[deleted]		
12	FEES 6.5.7R(4), FEES 6.3.22R, FEES 6.4.6R, FEES 6.4.8R, FEES 6.5.1R, and FEES 6.5.6R	R	[deleted]		
13	FEES 6.5.7R(4), FEES 6.5.10R, and FEES 6.5.13R(2)	R	[deleted]		
14	FEES 6.5.7R(5), FEES 6.5.11R, and FEES 6.5.13R(2)		[deleted]		
15 [PRA]	COMP 5.4.4R(4)(a) and COMP 5.4.4R(4)(b)	R	The changes to COMP 5.4.4 R (4) made in the Compensation Sourcebook (Amendment No 7) Instrument 2006 do not apply in relation to defaults declared before 6 June 2006. [deleted]	Indefinitely	6 June 2006
16 [PRA]	COMP 10.2.3 R	R	The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Protected Deposits Limit) Instrument 2007 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 October 2007. [deleted]	From 1 October 2007 indefinitely	Amended with effect from 1 October 2007

17 [FCA] [PRA]	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 [PRA]	COMP 10.2.3R	R	The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) Instrument 2009 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 30 June 2009. [deleted]	From 30 June 2009 indefinitely	30 June 2009
19 [FCA] [PRA]	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 [PRA]	COMP 4.3.1R	R	The change to the eligibility requirements for claimants for <i>protected deposits</i> made by the Financial Services Compensation Scheme (Banking Compensation Reform) Instrument 2009 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 1 August 2009. [deleted]	From 1 August 2009 indefinitely	1 August 2009
21	COMP 17.3 and COMP 17.2.7R	R	[deleted]		
22	COMP 17.3	R	[deleted]		
23	COMP 17.3.10R and COMP 17.3.12R	R	[deleted]		
24 [PRA]	COMP 10.2.3R	R	The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) (No 2) Instrument 2010 does 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. [deleted]	From 31 December 2010 indefinitely	31 December 2010

25 [FCA] [PRA]	COMP 12.2.1R and COMP 12.2.6AR and The amendment of all references in COMP (other than in COMP 12.2.1R and the heading in respect of COMP 12.2.4R) 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 [PRA]	COMP 12.3.1R and COMP 15.1.12R	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 claim against a relevant person that was in default before 31 December 2010. [deleted]	From 31 December 2010 indefinitely	From 31 December 2010
27 [FCA] [PRA]	COMP 4.2.2R(9)	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 [PRA]	COMP 16.3	R	A Northern Ireland credit union need not comply with COMP 16.3 until 30 September 2013. [deleted]	From 31 March 2012 until 30 September 2013	For Northern Ireland credit unions 31 March 2012
29	COMP 17	R	[deleted]		
30	COMP 17.3 and COMP 17.2.7R	R	[deleted]		
31	COMP 17.3	R	[deleted]		
32	COMP 17.3.10R and COMP 17.3.12R	R	[deleted]		
33 [FCA] [PRA]	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: (a) to the extent that the provisions changed apply to protected deposits, all the changes in (2); and	From 1 October 2012 indefinitely	From 1 October 2012

			(b) the changes to <i>COMP</i> 12.2.10 R; apply irrespective of when the default occurred.		
34 [FCA]	Amendments introduced by the Compensation Sourcebook (Investments by Large Unincorporated Associations and Certain Large Partnerships) Instrument 2013	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
35 [PRA]	Amendments introduced by the Compensation Sourcebook (Large unincorporated associations) Instrument 2013	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 17 December 2013. [deleted]	From 17 December 2013 indefinitely	From 17 December 2013.
36 [PRA]	<i>COMP</i> 17.2.1R and <i>COMP</i> 17.2.3R	R	The rules referred to in (2) only apply on or after 18 March 2014 in relation to changes to eligible claimants resulting from the Compensation Sourcebook (Large unincorporated associations) Instrument 2013. [deleted]	From 17 December 2013 to 17 March 2014	16 December 2013
37	<i>COMP</i> 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 [insert date instrument comes into force] 2016. Instead, <i>COMP</i> 10.2.3R(5) will continue to apply to such <i>claims</i> .	From [insert date instrument comes into force] 2016 indefinitely	[insert date instrument comes into force] 2016
38	<i>COMP</i> 4.2.2R(4), <i>COMP</i> 4.2.2R(9) and <i>COMP</i> 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 [insert date instrument comes into force] 2016.	From [insert date instrument comes into force] 2016 indefinitely	[insert date instrument comes into force] 2016
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 [insert date instrument comes into force] 2016 and the transfer, under which the <i>successor</i>	From [insert date instrument comes into force] 2016 indefinitely	[insert date instrument comes into force] 2016

			<u>assumed responsibility for liabilities arising from acts or omissions of the relevant person, occurred on or after 1 April 2013.</u>		
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Sch 2 Notification requirements

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Sch 2.2G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
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<i>COMP 2.2.7R</i>	<i>Default of relevant person or successor</i>	Not specified - although FSCS <u>the FSCS</u> must take appropriate steps to ensure claimants are informed about how they can claim compensation	default of a <i>relevant person or successor</i>	Not specified - but as soon as practicable after determining default
...

Financial Conduct Authority



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