

## Chapter 11

# Payment of compensation

**11.2 Payment**

**To whom must payment be made?**

11.2.1 **R** [deleted]

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

11.2.1B **R**

**Certain protected investment business claims**

11.2.2 **R** Where a claimant has a *protected claim* arising out of the circumstances described in ■ COMP 12.4.5 R, the *FSCS* must pay any compensation (and any recovery or other amount payable by the *FSCS* to the claimant) to:

- (1) the trustee of an *occupational pension scheme*; or
- (2) a *personal pension scheme* or other *product provider*; or
- (3) both (1) and (2);

and not to the claimant, unless exceptional circumstances apply.

**Collective investment scheme claims**

11.2.2A **R** Where a claimant has a *claim* that falls within ■ COMP 12A.3.1R, the *FSCS* may pay any compensation to:

- (1) the *participants* and not to the claimant; or
- (2) the *collective investment scheme* and (where different) not to the claimant; or
- (3) any combination of the above.

11.2.2B **G** As a result of ■ COMP 12A.3.1R, the *FSCS* must try to ensure that the amount paid is no more than the amount of the loss suffered by the *participant*.

**Protected funeral plan business claims**

11.2.2C **R** Where a claimant has a *protected funeral plan business claim* the *FSCS* may pay compensation (and any recovery or other amount payable by the *FSCS* to the claimant) to any other *person* on such terms and on such conditions as it thinks fit.

11.2.2D **G** ■ COMP 3.2.2R permits the *FSCS* to pay compensation to a *person* who makes a *claim* on behalf of another *person* where certain conditions are satisfied. This includes payment to the personal representatives who make a *claim* on behalf of the deceased (see ■ COMP 3.2.3G(1)). ■ COMP 11.2.2CR permits the *FSCS* to pay compensation to any other *person* who it considers should receive the compensation. For example, this may be to a funeral services provider directly where the funeral services provider has incurred expenses in providing funeral services under the *funeral plan contract* and is yet to be reimbursed.

11.2.3 **R**

**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:

- (1) by paying the compensation (on such terms as the *FSCS* considers appropriate) to an *authorised person* with *permission to accept deposits* which agrees to become liable to the claimant in a like sum;
- (2) by paying compensation directly into an existing deposit account of (or for the benefit of) the claimant, or as otherwise identified by (or on behalf of) the claimant, with an *authorised person* (but before doing so the *FSCS* must take such steps as it considers appropriate to verify the existence of such an account and to give notice to the claimant of its intention to exercise this power); and/or
- (3) [deleted]
- (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 3.2.2 R (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.

**Reduced or interim payments**

11.2.4 **R** If the *FSCS* is satisfied that in principle compensation is payable in connection with any *protected claim*, but considers that immediate payment in full would not be prudent because of uncertainty as to the amount of the claimant's overall *claim*, it may decide to pay an appropriate lesser sum in final settlement, or to make payment on account.

11.2.5 **R** The *FSCS* may also decide to make a payment on account or to pay a lesser sum in final settlement if the claimant has any reasonable prospect for recovery in respect of the *claim* from any third party or by applying for compensation to any other *person*.

11.2.6 **R** The *FSCS* may not pay a lesser sum in final settlement under **COMP 11.2.4 R** and **COMP 11.2.5 R** where the *claim* is an *ICD claim*.

11.2.6A **G** **COMP 11.2.4 R** applies to compensation payable in connection with any *protected claim*. It would, for example, apply to the situation where the *FSCS* considers it imprudent to make a payment in full because of uncertainty as to the value a court might attribute to a bonus provided for under a *long-term insurance contract*. In such circumstances the *FSCS* may make payment of compensation on account to the policyholder in respect of benefits under the contract the value of which is not uncertain.

**Paying interest on compensation**

11.2.7 **R** The *FSCS* may pay interest on the compensation sum in such circumstances as it considers appropriate.

11.2.8 **R** Interest under **COMP 11.2.7 R** is not to be taken into account when applying the limits on the compensation sum payable in respect of a *claim* under *COMP 10*.

**Paying full compensation in return for rights**

11.2.9 **R** Where the *FSCS* considers that the conditions in **COMP 11.2.4R** are satisfied but, in relation to a class of *claim*, in order to provide fair compensation for the generality of such *claims* it would be appropriate to take the approach in (1) and (2) rather than pay an appropriate lesser sum in final settlement or make a payment on account, it may for that class of *claim*:

- (1) receive whether by assignment, transfer or operation of law the whole or any part of a claimant's rights against the *relevant person* (or, where applicable, a *successor*), or against any third party, or both on such terms as the *FSCS* thinks fit; and
- (2) disregard the value of the rights so received in determining the claimant's overall *claim*.

- 11.2.10 **G** Factors that the *FSCS* may take into account when considering taking the approach in **COMP 11.2.9R (1)** and **COMP 11.2.9R (2)** include whether the amount of claimants' overall *claims* are likely to be assessed within a reasonable time frame, the circumstances of the claimants, the circumstances of the *claims* and the nature of the products to which the *claims* relate.