

**COMPENSATION SOURCEBOOK (DEPOSIT GUARANTEE SCHEMES  
DIRECTIVE AMENDMENTS) INSTRUMENT 2009**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 138 (General rule-making power);
    - (b) section 156 (General supplementary powers);
    - (c) section 157(1) (Guidance);
    - (d) section 213 (The compensation scheme); and
    - (e) section 214 (General); and
  - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force as follows:
- (1) Annex A and Part 1 of Annex B come into force on 30 June 2009;
  - (2) Part 2 of Annex B comes into force on 1 January 2010; and
  - (3) Part 3 of Annex B comes into force on 31 December 2010.

**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.

**Notes**

- F. In Annex B to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

**Citation**

- G. This instrument may be cited as the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) Instrument 2009.

By order of the Board  
28 May 2009

**Annex A****Amendments to the Glossary of definitions**

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

Insert the following new definition in the appropriate alphabetical position

*non-EEA firm*                    a firm that has its registered office (or, if it has no registered office, its head office) in a non-EEA state.

Amend the following definition as shown.

*working day*                    (1) (in *PR* and *COMP*) (as defined in section 103 of the *Act*) any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the *United Kingdom*.

...

## Annex B

## Amendments to the Compensation sourcebook (COMP)

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

## Part 1: Changes which come into force on 30 June 2009

Informing the FSCS

2.2.9 G The FSA will inform the FSCS if it detects problems in a firm that is likely to give rise to the intervention of the FSCS.

[Note: article 10(1), part of last sub-paragraph of the *Deposit Guarantee Directive*]

...

6.3.1A G The FSA will make the determination in COMP 6.3.1R(2)(a) in relation to a DGD claim as soon as possible and in any event no later than five working days after being satisfied that either of the conditions in COMP 6.3.2R has been met.

[Note: article 1(3)(i) of the *Deposit Guarantee Directive*]

...

10.2.3 R Table Limits

This table belongs to COMP 10.2.1R

Type of claim	Level of cover	Maximum payment
<i>Protected deposit</i>	100% of claim	<p>£50,000 or €50,000 whichever is the greater on the date the <u>relevant person is determined to be in default</u> or the date the <u>protected deposit was due and payable, if later.</u></p> <p><u>[Note: article 7(1) of the <i>Deposit Guarantee Directive</i>]</u></p> <p><u>(see also below for building society and other mutual society mergers (COMP 10.2.10R) and protected deposit transfers under the special resolution regime</u></p>

		(COMP 10.2.11R))
...		

...

- 14.3.1 R Where an *incoming EEA firm* obtains *top-up cover* under COMP 14.2, the FSCS must co-operate with that firm's Home State compensation scheme. In particular, the FSCS must seek to establish with that firm's Home State compensation scheme appropriate procedures for the payment of compensation to claimants, following the principles set out in Annex II of the Deposit Guarantee Directive or Annex II of the Investor Compensation Directive, as appropriate.

[Note: article 4(5) of the Deposit Guarantee Directive]

...

- 14.4.1 R The FSCS must terminate an *incoming EEA firm's top-up cover* where it is advised by the firm's Home State regulator or compensation scheme has ascertained that the conditions in COMP 14.2.1R are no longer satisfied.

...

- 14.4.4 R If the *incoming EEA firm* fails to meet its obligations for a period of twelve months following the notice, the FSCS may, subject to obtaining the consent of the incoming EEA firm's Home State regulator, terminate its top-up cover. Notwithstanding the termination of top-up cover under this rule, cover will continue for:

- (1) protected deposits which are not repayable on demand without penalty; and
- (2) protected investment business transacted before that termination.

...

- 14.4.6 R When an *incoming EEA firm's top-up cover* comes to an end under COMP 14.4.1R, COMP 14.4.4R or COMP 14.4.5R, it must:
- (1) inform all the clients of its *UK branch* no later than six weeks after the date that its participation ends that they are no longer protected (or, if appropriate, of the more limited protection provided) by the *compensation scheme*, and of the level of compensation which is then available to them; and

...

...

After *COMP* 15 insert the following new chapter. The text is not underlined.

## 16 Disclosure requirements for firms that accept deposits

### 16.1 Application and purpose

16.1.1 R This chapter applies to:

- (1) a *UK domestic firm* that *accepts deposits*;
- (2) a *non-EEA firm* that *accepts deposits* in the *United Kingdom*; and
- (3) an *incoming EEA firm* that *accepts deposits* through a *UK branch*.

16.1.2 G The purpose of this chapter is to set out the information about compensation that these *firms* must disclose, and the methods of communication which should be used.

### 16.2 Informing depositors of limitations to coverage

- 16.2.1 R
- (1) If a *protected deposit* is not protected by the *compensation scheme*, the *firm* must inform the depositor accordingly.
  - (2) A *firm* must make the information required by (1) available in a readily comprehensible manner.

[**Note:** article 9(1) of the *Deposit Guarantee Directive*]

16.2.2 R When providing the information required by *COMP* 16.2.1R, a *firm* must use the communication channels it normally uses when communicating with its depositors.

Amend the following as shown.

#### 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
...					
<u>18</u>	<u>COMP 10.2.3R</u>	<u>R</u>	<u>The change to the limit for <i>protected</i></u>	<u>From 30 June 2009</u>	<u>30 June 2009</u>

			<u>deposits made by the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) Instrument 2009 does not apply in relation to a claim against a relevant person that was in default before 30 June 2009.</u>	<u>indefinitely</u>	
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**Part 2: Changes which come into force on 1 January 2010**

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
...					
<del>18</del> 19	Amendments to <i>COMP</i> 10.2.3R 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

**Part 3: Changes which come into force on 31 December 2010**

Systems

2.2.10 R The FSCS must perform regular tests of its systems relating to the payment of compensation with respect to claims for protected deposits.

[**Note:** article 10(1), part of last sub-paragraph of the *Deposit Guarantee Directive*]

...

- 9.2.1 R The *FSCS* must pay a *claim* as soon as reasonably possible after:
- (1) it is satisfied that the conditions in *COMP* 3.2.1R have been met; and
  - (2) it has calculated the amount of compensation due to the claimant;
- and in any event within:
- (3) in relation to a *claim* for a *protected deposit*, 20 *working days* of that date unless the *FSA* has granted the *FSCS* an extension, in which case payment must be made no later than 30 *working days* from that date;  
or
  - (4) in relation to any other *claim*, three months of that date, unless the *FSA* has granted the *FSCS* an extension, in which case payment must be made no later than six months from that date.
- 9.2.1A R The time limits in *COMP* 9.2.1R(3) include the collection and transmission of accurate data on depositors and *protected deposits* which is necessary for the verification of claims.