

**FINANCIAL SERVICES COMPENSATION SCHEME (DETERMINATION OF
DEFAULT) INSTRUMENT 2020**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions of 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 provisions listed above are specified for the purposes of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 24 July 2020.

Amendments to the Handbook

- D. The Compensation sourcebook (COMP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Financial Services Compensation Scheme (Determination of Default) Instrument 2020.

By order of the Board
23 July 2020

Annex

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text.

6 Relevant persons and successors in default

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6.3 When is a relevant person in default?

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

- (1) the passing of a resolution for a creditors' voluntary winding up;
- (2) a determination by the *relevant person's Home State regulator* that the *relevant person* appears unable to meet *claims* against it and has no early prospect of being able to do so;
- (3) the appointment of a liquidator or administrator, or provisional liquidator or interim manager;
- (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) a moratorium under Part A1 of the Insolvency Act 1986 being in force.

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6.3.4A G For the avoidance of doubt, COMP 6.3.3R and COMP 6.3.4R do not limit COMP 6.3.2R.

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6.3A When is a successor in default?

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- 6.3A.3 R The *FSCS* may determine a *successor* to be *in default* if it is satisfied that a *protected claim* exists (other than an *ICD claim* against a *successor* that is a *MiFID investment firm*), and the *successor* is the subject of one or more of the following proceedings in the *United Kingdom* (or of equivalent or similar proceedings in another jurisdiction):
- (1) the passing of a resolution for a creditors' voluntary winding up; or
 - (2) a determination by the *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; or
 - (3) the appointment of a liquidator or administrator, or provisional liquidator or interim manager; or
 - (4) the making of an order by a court of competent jurisdiction for the winding up of a company, the dissolution of a partnership, the administration of a company or partnership, or the bankruptcy of an individual; or
 - (5) the approval of a company voluntary arrangement, a partnership voluntary arrangement, or of an individual voluntary arrangement; or
 - (6) a moratorium under Part A1 of the Insolvency Act 1986 being in force.

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

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