Compensation
Compensation

COMP INTRO

A INTRO 1

INTRO 1
Foreword

COMP 1
Introduction and Overview

1.1 Application, Introduction, and Purpose
1.2 The FSCS
1.3 Claimants
1.4 EEA Firms [deleted]
1.5 Application to Lloyd's
1.6 Cooperation with the FSCS

COMP 2
The FSCS

2.1 Application and Purpose
2.2 Duties of the FSCS

COMP 3
The qualifying conditions for compensation

3.1 Application and Purpose
3.2 The qualifying conditions for paying compensation

COMP 4
Eligible claimants

4.1 Application and Purpose
4.2 Who is eligible to benefit from the protection provided by the FSCS?
4.3 Exceptions: Circumstances where a person coming within COMP 4.2.2R may receive compensation
4.4 Exceptions: Relevant general insurance contracts: mesothelioma claims

COMP 5
Protected claims

5.1 Application and Purpose
5.2 What is a protected claim?
5.5 Protected investment business
5.6 Protected home finance mediation
5.7 Protected non-investment insurance distribution
5.8 Protected debt management business
### COMP 6 Relevant persons and successors in default

- **6.1** Application and Purpose
- **6.2** Who is a relevant person?
- **6.3** When is a relevant person in default?
- **6.3A** When is a successor in default?

### COMP 7 Assignment or subrogation of rights

- **7.1** Application
- **7.2** How does the assignment of rights work?
- **7.3** Automatic subrogation
- **7.4** Duty on FSCS to pursue recoveries
- **7.6** Treatment of recoveries

### COMP 8 Rejection of application and withdrawal of offer

- **8.1** Application and Purpose
- **8.2** Rejection of application for compensation
- **8.3** Withdrawal of offer of compensation

### COMP 9 Time limits on payment and postponing payment

- **9.1** Application and Purpose
- **9.2** When must compensation be paid?

### COMP 10 Limits on the amount of compensation payable

- **10.1** Application and Purpose
- **10.2** Limits on compensation payable

### COMP 11 Payment of compensation

- **11.1** Application and Purpose
- **11.2** Payment

### COMP 12 Calculating compensation

- **12.1** Application and Purpose
- **12.2** Quantification: general
- **12.3** Quantification date
- **12.4** The compensation calculation
- **12.5** [deleted]
- **12.6** Quantification: trustees, operators of pension schemes, persons winding up pension schemes, personal representatives, agents, and joint claims
COMP Contents

COMP 12A Special cases
12A.1 Trustees and pension schemes
12A.2 Personal representatives, agents and joint claims
12A.3 Collective investment schemes
12A.4 Foreign law
12A.5 Claims arising under COMP 3.2.4R

COMP 13 Funding
13 Ann 1 [deleted: the provisions in relation to the funding of the Financial Services Compensation Scheme are set out in FEES 6 (Financial Services Compensation Scheme Funding)]

COMP 14 Participation by EEA Firms
14.1 Application and Purpose
14.2 Obtaining top-up cover
14.3 Co-operation between the FSCS and Home State compensation schemes
14.4 Ending top-up cover
14.5 EEA UCITS management companies

Transitional provisions and Schedules
TP 1 Transitional Provisions
Sch 1 Record-keeping requirements
Sch 2 Notification requirements
Sch 3 Fees and other required payments
Sch 4 Powers Exercised
Sch 5 Rights of action for damages
Sch 6 Rules that can be waived
INTRO 1  Foreword

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

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

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

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

INTRO  Chapter 1: Introduction and Overview
This chapter provides an introduction to the FSCS rules and a table of question and answers that may be of interest to consumers.

INTRO  Chapter 2: The FSCS
This chapter gives the FSCS the duty to administer the compensation scheme. It also sets out the general conditions the FSCS must follow when administering the scheme, such as having regard to the efficient and economic use of resources, the requirement to publish an Annual Report, and the duty to ensure consumers are informed about how they can make a claim. The rules in this chapter also require the FSCS to have in place procedures for dealing with complaints.
### INTRO

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
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<tr>
<td>3</td>
<td>The qualifying conditions for paying compensation&lt;br&gt;This chapter sets out the main qualifying conditions that must be satisfied before the FSCS can pay compensation to claimants. These are that a claimant is eligible to claim; the activity that gave rise to the loss is protected by the scheme; the firm against which the claim is being made is protected by the scheme; and that the claimant has assigned his rights to the scheme. Chapters 4 to 7 expand on the general conditions described in Chapter 3.</td>
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<td>4</td>
<td>Eligible claimants&lt;br&gt;This chapter specifies who is eligible to receive compensation provided by the FSCS.</td>
</tr>
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<td>5</td>
<td>What is a protected claim?&lt;br&gt;This chapter specifies the activities that are protected by the FSCS.</td>
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<tr>
<td>6</td>
<td>Relevant persons and successors in default&lt;br&gt;This chapter specifies the circumstances when a firm is in default, that is, when a firm is to be taken as being unable or likely to be unable to meet claims against it. The FSCS can only pay compensation if the circumstances specified in Chapter 6 are met.</td>
</tr>
<tr>
<td>7</td>
<td>Assignment of rights&lt;br&gt;This chapter enables the FSCS to make an offer of compensation conditional on the claimant assigning to it their rights to claim against the failed firm. If the FSCS recovers from the firm a greater sum than it has paid to the claimant, it must pay the balance to the claimant.</td>
</tr>
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<td>8</td>
<td>Rejection of application and withdrawal of offer&lt;br&gt;This chapter allows the FSCS to reject an application for compensation or withdraw an offer of compensation in specified circumstances.</td>
</tr>
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<td>9</td>
<td>Time limits on payment and postponing payment&lt;br&gt;This chapter requires the FSCS to pay a claim for compensation within a specified time unless specified conditions apply.</td>
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<td>10</td>
<td>Limits on the amount of compensation payable&lt;br&gt;This chapter specifies the maximum amount of compensation the FSCS can pay to a claimant.</td>
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<td>11</td>
<td>Payment of compensation&lt;br&gt;This chapter specifies to whom the FSCS may pay compensation. In certain circumstances compensation may be paid to a person other than the claimant.</td>
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<td>Section INTRO 1: Foreword</td>
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<tr>
<td><strong>INTRO</strong> Chapter 12 Calculating compensation</td>
<td>This chapter specifies how the FSCS will calculate the amount of compensation it can pay to a claimant.</td>
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<td><strong>INTRO</strong> Chapter 13 Funding</td>
<td>Chapter 13 relating to the funding of the FSCS has now been deleted. The funding provisions for the FSCS are now contained in FEES 6 instead and allow the FSCS to make levies on authorised firms to fund the operation of the scheme or to pay compensation. FEES 6 specifies how FSCS can make levies, how costs are to be allocated, the maximum the FSCS can levy in any particular period of time, and how sums recovered from failed firms are to be treated.</td>
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<td><strong>INTRO</strong> Chapter 14 Participation by EEA firms</td>
<td>This chapter sets out the way the FSCS deals with incoming EEA firms who may choose to top-up into the FSCS to supplement the compensation available from their home state scheme.</td>
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Chapter 1

Introduction and Overview
1.1 Application, Introduction, and Purpose

Application

1.1.1 This chapter is relevant to:

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

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

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

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

Introduction

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

1.1.6 The FCA and PRA are also required, under section 213 of the Act (The compensation scheme), to make rules establishing a compensation scheme. The FCA’s rules are set out in the remaining chapters of this sourcebook, and are directed to the FSCS, claimants and potential claimants, and firms. The PRA’s rules dealing with claims for deposits and under contracts of insurance are set out in the PRA Rulebook.
1.1.7 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.

1.1.8 COMP 1 consists of guidance which is aimed at giving an overview of how this sourcebook works. The provisions of COMP 2 to COMP 14 cover who is eligible, the amount of compensation and how it might be paid.

1.1.9 [deleted]

1.1.9A This sourcebook is one of the means by which the FCA will meet its statutory objectives of securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system.

1.1.10 [deleted]

1.1.10A 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.

1.1.10B [deleted]
While this sourcebook deals with the main powers and duties of the FSCS, it does not provide the complete picture. Other aspects of the operation of the FSCS are dealt with through the powers of the Financial Services Compensation Scheme Limited under company law (such as the power to borrow, to take on premises, etc.).

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

(2) Of specific relevance to the way in which the FSCS fulfils its responsibilities is the relationship between the FSCS and the FCA. This is covered in a Memorandum of Understanding which can be found on the FCA website [http://www.fca.org.uk](http://www.fca.org.uk)
1.3 Claimants

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

1.3.2 Information about the operation of the FSCS and how to claim is also available from the FSCS website (www.fscs.org.uk).

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

<table>
<thead>
<tr>
<th>Q1</th>
<th>What do I need to do in order to receive compensation?</th>
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<tbody>
<tr>
<td>A1</td>
<td>In order to receive compensation:</td>
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<td>(-1) If your claim is for a deposit or under a contract of insurance, see the PRA’s Depositor Protection or Policyholder Protection rules;</td>
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<td>(1) you must be an eligible claimant;</td>
<td>COMP 4.2</td>
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<td>(2) you must have a protected claim;</td>
<td>COMP 5.2</td>
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<td>(3) you must be claiming against a relevant person or a successor;</td>
<td>COMP 6.2.1 R</td>
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<td>(4) where the claim is against a relevant person, the relevant person must be in default; or where the claim is against a successor, the successor must be in default.</td>
<td>COMP 6.3; COMP 6.3A</td>
</tr>
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</table>

In addition, if the FSCS requires you to do so, you must assign your legal rights in the claim to the FSCS. COMP 7.2

And you must bring your claim to the FSCS within a set time (normally within six years of the date on which your claim against the relevant person occurred). COMP 8.2.3 R - COMP 8.2.5 R

It is possible, in certain circumstances, for someone else to make a claim on your behalf. COMP 3.2.2 R

Q2 How much compensation will I be offered?

This depends on whether your protected claim...
**A2**

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<td>(3)</td>
<td>a claim in connection with protected investment business; or COMP 5.5</td>
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<td>(4)</td>
<td>a claim in connection with protected home finance mediation; or COMP 5.6</td>
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<tr>
<td>(5)</td>
<td>a claim in connection with protected non-investment insurance distribution. COMP 5.7</td>
</tr>
</tbody>
</table>

Different limits apply to different types of claim. COMP 10.2.3 R

**Q3**

*How will the FSCS calculate the compensation that is offered to me?*

**A3**

Again, this will depend on whether your protected claim is:

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<td>(2)</td>
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<tr>
<td>(3)</td>
<td>a claim in connection with protected investment business; or COMP 12.2.1 R, COMP 12.3.5 R and COMP 12.4.2 R</td>
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<tr>
<td>(4)</td>
<td>a claim in connection with protected home finance mediation; or COMP 12.4.17 R</td>
</tr>
<tr>
<td>(5)</td>
<td>a claim in connection with protected non-investment insurance distribution. COMP 12.4.20 R</td>
</tr>
</tbody>
</table>

Certain types of protected investment business claim require the FSCS to use a particular method of calculation. COMP 12.4.5 R

**Q4**

[deleted]
1.5 Application to Lloyd's

Compensation arrangements for individual members

1.5.7 G The compensation scheme will not compensate members or former members if firms are unable to satisfy claims made in connection with regulated activities relating to their participation in Lloyd's syndicates. Separate rules and guidance are therefore needed.

1.5.8 R The Society must maintain byelaws establishing appropriate and effective arrangements to compensate individual members and former members who were individual members if underwriting agents are unable, or likely to be unable, to satisfy claims by those members relating to regulated activities carried on in connection with their participation in Lloyd's syndicates.

1.5.9 R For the purposes of COMP 1.5.8 R "individual member" includes a member which is a limited liability partnership or a body corporate whose members consist only of, or of the nominees for, a single natural person or a group of connected persons.

1.5.10 G The arrangements referred to in COMP 1.5.8 R:

(1) will not compensate losses arising only as a result of underwriting or investment risk to which individual members or former members who were individual members are or were exposed by their participation in Lloyd's syndicates;

(2) may be restricted to compensation for losses arising out of fraud, dishonesty or failure to account; and

(3) should cover all regulated activities carried on by underwriting agents relating to Lloyd's syndicate capacity and syndicate membership.

1.5.11 G The arrangements referred to in COMP 1.5.8 R should have a governance structure that is operationally independent from the Society, but which is nevertheless accountable to the Society for the proper administration of the compensation arrangements.

1.5.12 R A contravention of COMP 1.5.8 R does not give rise to a right of action by a private person under section 138D of the Act (Actions for damages) and that rule is specified under Section 138D(3) of the Act as a provision giving rise to no such right of action.
1.6 Cooperation with the FSCS

1.6.1 A firm must deal with the FSCS in an open, cooperative and timely way.
Chapter 2

The FSCS
2.1 Application and Purpose

Application

2.1.1 R This chapter applies to the FSCS.

Purpose

2.1.2 G In order to carry out its functions and put into effect the provisions set out in COMP 3 - COMP 14 (which deal with determining whether compensation is payable, calculating the amount of compensation that should be paid, and making levies on firms), the FSCS needs to have a variety of powers. The purpose of this chapter is to set out these powers, and the restrictions upon them.
### 2.2 Duties of the FSCS

#### Administering the compensation scheme

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

2.2.2 The FSCS may:

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

#### Information for claimants

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

#### Assistance to claimants

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

#### Annual Report

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

#### Finance and resources

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

Complaints

2.2.8 R The FSCS must put in place and publish procedures which satisfy the minimum requirements of procedural fairness and comply with the European Convention on Humans Rights for the handling of any complaints of maladministration relating to any aspect of the operation of the compensation scheme.

Informing the FSCS

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

2.2.10 R [deleted]
Chapter 3

The qualifying conditions for compensation
3.1 Application and Purpose

Application

3.1.1 R This chapter applies to the FSCS.

3.1.2 G It is also relevant to claimants.

Purpose

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

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

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

1. an eligible claimant has made an application for compensation (or the FSCS is treating the person as having done so);

2. the claim is in respect of a protected claim against a relevant person (or, where applicable, a successor) who is in default; and

3. where the FSCS so requires, the claimant has assigned the whole or any part of his rights against any one or more of the relevant person, any third party or, where applicable, a successor, to the FSCS, on such terms as the FSCS thinks fit.

4. [deleted]

Treating a person as having claimed

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

Claims on behalf of another person

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

1. is or would have been an eligible claimant; and

2. would have been paid compensation by the FSCS had he been able to make the claim himself, or to pursue his application for compensation further.

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

1. when personal representatives make a claim on behalf of the deceased;

2. when trustees make a claim on behalf of beneficiaries (for further provisions relating to claims by trustees, see COMP 12A.1.1R to 12A.1.7R);
(3) when the donee of an enduring power of attorney or a lasting power of attorney makes a claim on behalf of the donor of the power;

(4) when the Court of Protection makes a claim on behalf of a person incapable by reason of mental disorder of managing and administering his property and affairs;

(5) when an eligible claimant makes a claim for compensation but dies before his claim is determined.

### 3.2.4 R

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

(1) each customer has borne a shortfall in client money held by the firm caused by a secondary pooling event arising out of the failure of a broker or settlement agent which is a relevant person in default;

(2) the customers in respect of which compensation is to be paid satisfy the conditions set out in COMP 3.2.2 R (1);

(3) the customers do not have a claim against the relevant person directly, nor a claim against the firm, in respect of the same loss;

(4) the customers would have been paid compensation by FSCS if the customers had a claim for their share of the shortfall, and if the firm were the relevant person; and

(5) the firm has agreed, on such terms as the FSCS thinks fit, to pay, or credit the accounts of, without deduction, each relevant customer in (1), that part of the compensation equal to the customer's financial loss, subject to the limits in COMP 10.2.

### Special cases

See COMP 12A (Special cases) for how the FSCS may pay compensation in certain cases.
Chapter 4

Eligible claimants
4.1 Application and Purpose

Application

4.1.1 R This chapter applies to the FSCS.

4.1.2 G It is also relevant to those who may wish to bring a claim for compensation.

Purpose

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

#### 4.2.1

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

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

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

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<td><strong>(1)</strong></td>
<td>Firms (other than a sole trader firm; a credit union; a trustee of a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme; a firm carrying on the regulated activity of operating, or winding up, a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme; or a small business; in each case, whose claim arises out of a regulated activity for which they do not have a permission)</td>
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<tr>
<td><strong>(2)</strong></td>
<td>Overseas financial services institutions</td>
</tr>
<tr>
<td><strong>(3)</strong></td>
<td>Collective investment schemes, and anyone who is the operator or depositary of such a scheme.</td>
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<tr>
<td><strong>(4)</strong></td>
<td>Pension and retirement funds, and anyone who is a trustee of such a fund. However, this exclusion does not apply to:</td>
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<td></td>
<td>(a) a trustee of a personal pension scheme or a stakeholder pension scheme (which is not an occupational pension scheme); or</td>
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<td></td>
<td>(b) a trustee of an occupational pension scheme insofar as members’ benefits are money-purchase benefits; or</td>
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<td></td>
<td>(c) insofar as members’ benefits are not money-purchase benefits, a trustee of an occupational pension scheme of an employer which is not a large company, large partnership or large mutual association.</td>
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<tr>
<td><strong>(5)</strong></td>
<td>Supranational institutions, governments, and central administrative authorities</td>
</tr>
<tr>
<td><strong>(6)</strong></td>
<td>Provincial, regional, local and municipal authorities</td>
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</tbody>
</table>
| **(7)** | Directors of the relevant person in default or, in respect of a claim against a successor in default, directors of any successor or directors of the relevant person. However, this exclusion does not apply if:
### Section 4.2: Who is eligible to benefit from the protection provided by the FSCS?

| (a)  | (i) | The relevant person in default is a mutual association which is not a large mutual association and the directors do not receive a salary or other remuneration for services performed by them for the relevant person in default; or |
|      |     | In respect of a claim against a successor in default, the relevant person or a successor, to whichever the directorship relates, is a mutual association which is not a large mutual association and the directors do not receive a salary or other remuneration for services performed by them for the relevant person or a successor, as applicable; or |
| (b)  | (i) | The relevant person in default is a credit union; or |
|      | (ii) | In respect of a claim against a successor in default, the relevant person or a successor, to whichever the directorship relates, is a credit union. |

#### (8) [deleted]

#### (9) Bodies corporate in the same group as the relevant person in default or, in respect of a claim against a successor in default, bodies corporate in the same group as a successor or the relevant person, as applicable, unless that body corporate is:

- a trustee of a stakeholder pension scheme (which is not an occupational pension scheme) or a personal pension scheme (but in each case if the trustee is a firm it will only be an eligible claimant if its claim arises out of a regulated activity for which it does not have a permission); or
- carrying on the regulated activity of operating or winding up a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme.

#### (10) [deleted]

#### (11) [deleted]
### Eligible Claimants

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

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(12)</td>
<td>Persons who, in the opinion of the FSCS, are responsible for, or have contributed to, the relevant person's (or, where applicable, a successor's) default</td>
</tr>
<tr>
<td>(13)</td>
<td>Large companies</td>
</tr>
<tr>
<td>(14)</td>
<td>Large partnerships</td>
</tr>
<tr>
<td>(15)</td>
<td>Persons whose claim arises from transactions in connection with which they have been convicted of an offence of money laundering.</td>
</tr>
<tr>
<td>(16)</td>
<td>[deleted]</td>
</tr>
<tr>
<td>(17)</td>
<td>Where the claim is in relation to protected non-investment insurance distribution, bodies corporate, partnerships, mutual associations and unincorporated associations which are not small businesses.</td>
</tr>
<tr>
<td>(18)</td>
<td>Alternative investment funds, and anyone who is the AIFM or depositary of an alternative investment fund.</td>
</tr>
<tr>
<td>(19)</td>
<td>Large mutual associations</td>
</tr>
<tr>
<td>(20)</td>
<td>Where the claim is in relation to protected debt management business, any person other than a natural person.</td>
</tr>
</tbody>
</table>

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

4.3.6 R A person who comes within COMP 4.2.2R is eligible to claim compensation in respect of a liability subject to compulsory insurance if the claim is in connection with protected non-investment insurance distribution.
There are no exceptions to COMP 4.2.2R for claims made in connection with protected home finance mediation.

The FSCS may treat a person who comes within category (7) or (12) of COMP 4.2.2R as eligible to claim compensation where:

1. this is desirable to achieve the efficient performance of any of its functions, including without limitation; to achieve the efficient payment of compensation; and

2. treating these persons as eligible to claim compensation would, in the opinion of the FSCS, be beneficial to the generality of eligible claimants who will be affected by the action in (1).

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:

1. came within category (14) of COMP 4.2.2R and he does not exceed the limits for a body corporate which qualifies as a small company under section 247 of the Companies Act 1985 or section 382 of the Companies Act 2006 as applicable; or

2. came within category (19) of COMP 4.2.2R.
4.4 Exceptions: Relevant general insurance contracts: mesothelioma claims

Application

4.4.1 [deleted]

Claims for contribution by responsible persons

4.4.2 [deleted]

4.4.3 [deleted]

4.4.4 [deleted]

Limits to amounts payable for contribution claims

4.4.5 [deleted]
Chapter 5

Protected claims
5.1 Application and Purpose

Application

5.1.1 R This chapter applies to the FSCS.

5.1.2 G It is also relevant to claimants.

Purpose

5.1.3 G The purpose of this chapter is to set out the various categories of claim for which compensation may be payable.
5.2 What is a protected claim?

5.2.1 A protected claim is:

(1) [deleted]

(2) [deleted]

(3) a claim in connection with protected investment business (see COMP 5.5); or

(4) a claim in connection with protected home finance mediation (see COMP 5.6); or

(5) a claim in connection with protected non-investment insurance distribution (see COMP 5.7); or

(6) a claim in connection with protected debt management business (see COMP 5.8).

5.2.2 () [deleted]

Claims in respect of Law Society members

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

(1) is an authorised professional firm that is subject to the rules of the Law Society (England and Wales) or the Law Society of Scotland; and

(2) with respect to its regulated activities, does not participate in the relevant society's compensation scheme:

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

Claims in respect of successors

5.2.4 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.
5.5 Protected investment business

5.5.1 Protected investment business is:

1. designated investment business carried on by the relevant person with, or for the benefit of, the claimant (so long as that claimant has a claim), or as agent on the claimant’s behalf;

2. the activities of the manager or trustee of an AUT, provided that the claim is made by a holder;

3. the activities of the ACD or depositary of an ICVC, provided that the claim is made by a holder;

4. the activities of the authorised contractual scheme manager or depositary of an ACS, provided that the claim is made by a holder;

5. the activities of the manager or depositary of an ELTIF, provided that the claim is made by a holder;

5A. the activities by a recognised investment exchange of operating a multilateral trading facility or operating an organised trading facility,

6. the intermediation of structured deposits,

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

Territorial scope condition

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

1. an establishment of the relevant person in the United Kingdom; or

2. a branch of a UK firm which is:

   a. a MiFID investment firm established in another EEA State; or

   b. a UCITS management company established in another EEA State (but only in relation to managing investments (other than advising on investments or safeguarding and administering investments));

   () and the claim is an ICD claim; or
(3) both (1) and (2); or

(4) (a) a UK branch of an EEA UCITS management company; or

(b) an establishment of such an EEA UCITS management company in its Home State from which cross border services are being carried on;

and in either case the management company is providing collective portfolio management services for a UCITS scheme but only if the claim relates to that activity; or

(5) an establishment of an incoming EEA AIFM in another EEA State if the claim relates to providing AIFM management functions on a cross border services basis for an authorised AIF.

Managers and depositaries of funds

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

(1) for the activities of managing an AIF, managing a UCITS or establishing, operating or winding up a collective investment scheme, the claim is in respect of an investment in:

(a) an authorised fund; or

(b) any other fund which has its registered office or head office in the UK or is otherwise domiciled in the UK unless it is an AIF that is a body corporate and not a collective investment scheme;

(2) where a firm is acting as depositary of a fund, the claim is in respect of their activities for:

(a) an authorised fund; or

(b) a charity AIF unless it is a body corporate that is not a collective investment scheme.

Advising without a personal recommendation

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

(1) had, or required, permission to carry on; or

(2) (in the case of an appointed representative) was exempt from the general prohibition in respect of,

an activity that was designated investment business.
5.6 Protected home finance mediation

5.6.1 Protected home finance mediation is:

(1) advising on a home finance transaction; or
(2) arranging (bringing about) a home finance transaction; or
(3) making arrangements with a view to a home finance transaction; or
(4) agreeing to carry on a regulated activity in (1) to (3); or
(5) the activities of a home finance provider which would be arranging but for article 28A of the Regulated Activities Order (Arranging contracts or plans to which the arranger is a party);

provided that the condition in COMP 5.6.2 R is satisfied.

5.6.2 COMP 5.6.1 R applies only if the protected home finance mediation was carried on by a relevant person:

(1) with a customer who was a resident in the United Kingdom; or
(2) from an establishment maintained by the relevant person (or its appointed representative) in the United Kingdom with a customer who was resident elsewhere in the EEA;

at the time the protected home finance mediation was carried on.

5.6.3 This section does not apply in respect of a regulated mortgage contract which is:

(1) a legacy CCA mortgage contract; or
(2) a CBTL credit agreement.
5.7 Protected non-investment insurance distribution

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

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

(1) the protected non-investment insurance distribution was carried on from:
   (a) an establishment of the relevant person in the United Kingdom; or
   (b) a branch of a UK firm established in another EEA State in the exercise of an EEA right derived from the IDD; and

(2) the claimant making the claim (or where COMP 3.2.4 R applies, the customer on behalf of whom a firm makes a claim) dealt initially, with a view to entering into a relevant general insurance contract or a pure protection contract but not a long-term care insurance contract or a reinsurance contract, with an intermediary that was:
   (a) established in the United Kingdom; or
   (b) a branch of a UK firm established in another EEA State in the exercise of an EEA right derived from the IDD.

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

5.7.4 The FSCS will not cover a claim in respect of an intermediary that is not a relevant person, for example a retailer selling extended warranties that are connected contracts. However, COMP 5.7.2 R has the effect that a claim in respect of a relevant person further up the chain carrying on protected non-investment insurance distribution in accordance with COMP 5.7.2 R (1)(a) may be covered by the FSCS if the claimant dealt initially with a UK intermediary that is not a relevant person.
Advising without a personal recommendation

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

1. had, or required, permission to carry on; or

2. (in the case of an appointed representative) was exempt from the general prohibition in respect of,

an activity that was non-investment insurance business.
5.8 Protected debt management business

5.8.1 Protected debt management business is debt management activity carried out by a CASS debt management firm from an establishment maintained by it in the United Kingdom, but only in so far as the claim relates to a shortfall in client money.
Chapter 6

Relevant persons and successors in default
6.1 Application and Purpose

Application

6.1.1 R This chapter applies to the FSCS.

6.1.2 G It is also relevant to claimants.

Purpose

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

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

6.2.1 A relevant person is a person who was, at the time the act or omission giving rise to the claim against it took place:

(1) a participant firm; or

(2) an appointed representative of a participant firm.

6.2.2 [deleted]
6.3 When is a relevant person in default?

6.3.1 A relevant person is in default if:

1. (except in relation to an ICD claim) the FSCS has determined it to be in default under COMP 6.3.2 R, COMP 6.3.3 R or COMP 6.3.4 R; or

2. (in relation to an ICD claim):
   - a) the FCA has determined it to be in default under COMP 6.3.2 R; or
   - b) a judicial authority has made a ruling that had the effect of suspending the ability of eligible claimants to bring claims against the participant firm, if that is earlier than (a); and

   if a relevant person is in default in relation to an ICD claim it shall be deemed to be in default in relation to any other type of protected claim.

6.3.1A [Note: article 2(2) of the Investor Compensation Directive]

6.3.2 The FSCS (or, where COMP 6.3.1 R(2)(a) applies, the FCA) may determine a relevant person to be in default when it is, in the opinion of the FSCS (or the FCA):

1. unable to satisfy protected claims against it; or

2. likely to be unable to satisfy protected claims against it.

6.3.3 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.

6.3.4 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:

(1) the FSCS is satisfied that the relevant person 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 relevant person will be able to meet claims made against it.

6.3.5 [deleted]

6.3.6 [deleted]

6.3.7 [deleted]

Claims arising under COMP 3.2.4 R

6.3.8 For the purposes of COMP 6.3 a claim made by a firm under COMP 3.2.4 R is to be treated as if it were a protected claim against the relevant person.

Scheme manager’s power to require information

6.3.9 For the purposes of sections 219(1A)(b) and (d) of the Act (Scheme manager’s power to require information) whether a relevant person is unable or likely to be unable to satisfy claims shall be determined by reference to whether it is in default.
6.3A When is a successor in default?

6.3A.1 

A successor is in default if:

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

- (in relation to an ICD claim against a successor that is a MiFID investment firm):
  - the FCA has determined it to be in default under COMP 6.3A.2R; or
  - a judicial authority has made a ruling that had the effect of suspending the ability of eligible claimants to bring claims against the successor, if that is earlier than (i).

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

6.3A.2 

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 

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 an individual voluntary arrangement.

6.3A.4 The FSCS may determine that a successor to be in default if it is satisfied that a protected claim exists (other than an ICD claim against a successor that is an MiFID investment firm), and:

(1) the FSCS is satisfied that the successor cannot be contacted at its last place of business and that reasonable steps have been taken to establish a forwarding or current address, but without success; and

(2) there appears to the FSCS to be no evidence that the successor will be able to meet claims made against it.

6.3A.5 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.
Chapter 7

Assignment or subrogation of rights
7.1 Application

Application and Purpose

7.1.1 R This chapter applies to the FSCS.

7.1.2 G It is also relevant to claimants.

Purpose

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

7.2.1 The FSCS may make any payment of compensation to a claimant in respect of any protected claim conditional on the claimant assigning the whole or any part of his rights against any one or more of the the relevant person, any third party, or, where applicable, a successor, to the FSCS on such terms as the FSCS thinks fit.

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

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

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

(3) [deleted]

7.2.3A [deleted]

Electronic assignment

7.2.3AA Where the FSCS has paid compensation in respect of a claim, this has the effect that:

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

(2) production of a hard copy of the electronically signed assignment form is conclusive evidence (or, in Scotland, sufficient evidence) that the formalities of a legal assignment have been complied with and that a legal assignment has occurred; and
Section 7.2: How does the assignment of rights work?

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

7.2.3B [deleted]

7.2.3C [deleted]

7.2.3D [deleted]

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

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

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

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

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

Claims arising under COMP 3.2.4R

7.2.7 [deleted]

(1) For the purposes of compensation paid under COMP 3.2.4 R, FSCS may require any firm (including, but not limited to, the claimant firm) to assign to FSCS any rights the firm may have to claim against the relevant person in relation to the amount of the shortfall in client money arising out of the failure of the relevant person.

(2) A firm required by FSCS to assign its rights in (1), must assign those rights as requested, unless it has a reasonable excuse for not doing so.
7.3 Automatic subrogation

7.3.1 [deleted]

7.3.2 The FSCS’s powers in this section may be used:

(1) separately or in any combination as an alternative and in substitution for the powers and processes elsewhere in this sourcebook; and/or

(2) [deleted]

(3) in relation to all or any part of a protected claim or class of protected claim made with respect to the relevant person (or, where applicable, a successor).

(4) [deleted]

7.3.3 The FSCS may determine that the exercise of any power in this section is subject to such incidental, consequential or supplemental conditions as the FSCS considers appropriate.

Determinations by the FSCS

7.3.4 (1) Any power conferred on the FSCS to make determinations under this section is exercisable in writing.

(2) An instrument by which the FSCS makes the determination must specify the provision under which it is made, the date and time from which it takes effect and the relevant person (or, where applicable, a successor) and protected claims, parts of protected claims and/or classes of protected claims in respect of which it applies.

(3) The FSCS must take appropriate steps to publish the determination as soon as possible after it is made. Such publication must be accompanied by a statement explaining the effect of COMP 7.4.2 R.

(4) Failure to comply with any requirement in this rule does not affect the validity of the determination.

(5) A determination by the FSCS under this section may be amended, remade or revoked at any time and subject to the same conditions.
Verification of determinations

7.3.5 R

(1) The production of a copy of a determination purporting to be made by the FSCS under this section:

(a) on which is endorsed a certificate, signed by a member of the FSCS’s staff authorised by it for that purpose; and

(b) which contains the required statements;

is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.

(2) The required statements are:

(a) that the determination was made by the FSCS; and

(b) that the copy is a true copy of the determination.

(3) A certificate purporting to be signed as mentioned in (1) is to be taken to have been properly signed unless the contrary is shown.

(4) A person who wishes in any legal proceedings to rely on a determination may require the FSCS to endorse a copy of the determination with a certificate of the kind mentioned in (1).

Effect of this section on other provisions in this sourcebook etc

7.3.6 R

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

7.3.7 R

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

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

7.3.8 R

The FSCS may determine that:

(1) the payment of compensation by the FSCS;
(2) [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 do not exceed the rights and claims that the claimant would have had; and/or

(6) such rights and/or obligations (as determined by the FSCS) as between the relevant person (or, where applicable, a successor) and the claimant arising out of the protected claim in respect of which the payment was made shall be transferred to, and subsist between, another authorised person (or, where a successor is not an authorised person, an authorised person) with an appropriate permission and the claimant provided that the authorised person has consented (but the transferred rights and/or obligations shall be treated as existing between the relevant person (or where applicable, a successor) and the FSCS to the extent of any subrogation, transfer or assignment for the purposes of (3) to (5) and COMP 7.3.9 R).

The FSCS may alternatively or additionally make the actions in COMP 7.3.8R (1) 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 on such terms as the FSCS determines are appropriate.

(1) The FSCS may determine that:

(a) if the claimant does not assign or transfer his rights under COMP 7.3.9 R;

(b) if it is impractical to obtain such an assignment or transfer; and/or

(c) if it is otherwise necessary or desirable in conjunction with the exercise of the FSCS’s powers under COMP 7.3.8 R or COMP 7.3.9 R;
that claimant shall be treated as having irrevocably and unconditionally appointed the chairman of the FSCS for the time being to be his attorney and agent and on his behalf and in his name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the United Kingdom, another EEA State or any other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect to those powers.

(2) The execution of any deed or document under (1) shall be as effective as if made in writing by the claimant or by his agent lawfully authorised in writing or by will.
7.4 Duty on FSCS to pursue recoveries

7.4.1 If the FSCS takes assignment or transfer of rights from the claimant or is otherwise subrogated to the rights of the claimant, it must pursue all and only such recoveries as it considers are likely to be both reasonably possible and cost effective to pursue.

7.4.2 If the FSCS decides not to pursue such recoveries and a claimant wishes to pursue those recoveries himself and so requests in writing, the FSCS must comply with that request and assign the rights back to the claimant.
7.6 Treatment of recoveries

7.6.1 If the FSCS makes recoveries in relation to a claim, it may deduct from any recoveries paid over to the claimant under COMP 7.6.2 part or all of its reasonable costs of recovery and distribution (if any).

7.6.2 Unless compensation was paid under COMP 9.2.3, if a claimant assigns or transfers his rights to the FSCS or a claimant’s rights and claims are otherwise subrogated to the FSCS and the FSCS subsequently makes recoveries through those rights or claims, those recoveries must be paid to the claimant:

(1) to the extent that the amount recovered exceeds the amount of compensation (excluding interest paid under COMP 11.2.7) received by the claimant in relation to the protected claim; or

(2) in circumstances where the amount recovered does not exceed the amount of compensation paid, to the extent that failure to pay any sums recovered to the claimant would leave a claimant who had promptly accepted an offer of compensation or whose rights and claims had been subrogated to the FSCS at a disadvantage relative to a claimant who had delayed accepting an offer of compensation or whose claims had not been subrogated (see COMP 7.6.4).

7.6.3 For the purpose of COMP 7.6.2 compensation received by eligible claimants in relation to contracts of insurance written at Lloyd’s may include payments made from the Central Fund.

7.6.4 The FSCS must endeavour to ensure that a claimant will not suffer disadvantage arising solely from his prompt acceptance of the FSCS’s offer of compensation or from the subrogation of his rights and claims to the FSCS compared with what might have been the position had he delayed his acceptance or had his claims not been subrogated.

7.6.5 As an example of the circumstances which COMP 7.6.4 is designed to address, take two claimants, A and B.

(1) Both A and B have a protected investment business claim of £120,000 against a relevant person (or, where applicable, a successor) in default. The FSCS offers both claimants £85,000 compensation (the maximum amount payable for such claims under COMP 10.2.3). A accepts immediately, and assigns his rights against the relevant person (or, where applicable, a successor) to the FSCS, but B delays accepting the FSCS’s offer of compensation.
(2) In this example, the liquidator is able to recover assets from the relevant person (or, where applicable, a successor) in default and makes a payment of 50p in the pound to all the relevant person's or successor's, as appropriate, creditors. If the liquidator made the payment before any offer of compensation from the FSCS had been accepted, A and B would both receive £60,000 each from the liquidator, leaving both with a loss of £60,000 to be met by the FSCS. Both claims would be met in full.

(3) However, if the payment were made by the liquidator after A had accepted the FSCS's offer of compensation and assigned his rights to the FSCS, but before B accepted the FSCS offer of compensation, A would be disadvantaged relative to B even though he has received £85,000 compensation from the FSCS. A would be disadvantaged relative to B because he promptly accepted the FSCS's offer and assigned his rights to the FSCS. Because A has assigned his rights to the FSCS, any payment from the liquidator will be made to the FSCS rather than A. In this case the FSCS has paid A more than £60,000, so the £60,000 from the liquidator that would have been payable to A will be payable in full to the FSCS and not to A.

(4) B is able to exercise his rights against the liquidator because he delayed accepting the FSCS's offer and receives £60,000 from the liquidator. B can then make a claim for the remaining £60,000 to the FSCS which the FSCS can pay in full (see COMP 10.2.2 G). B therefore suffers no loss whereas A is left with a loss of £35,000, being the difference between his claim of £120,000 and the compensation paid by the FSCS of £85,000.
Chapter 8

Rejection of application and withdrawal of offer
8.1 Application and Purpose

Application

8.1.1 R This chapter applies to the FSCS.

8.1.2 G It is also relevant to claimants.

Purpose

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

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

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

8.2.3 The FSCS must reject an application for compensation if:

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

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

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

8.2.5 For claims made in connection with protected investment business or protected non-investment insurance distribution, 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
COMP 8 : Rejection of application and withdrawal of offer

Section 8.2 : Rejection of application for compensation

extinguished by operation of law, the FSCS must treat the claim, for the purposes of paying compensation, as if the relevant person or a successor, as appropriate, had not been dissolved.

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

(1) the company was declared in default on or after 1 December 2001; and

(2) at the time the application for compensation is made, the company has been dissolved.

8.2.7 The FSCS may reject an application for compensation if:

(1) it relates to an event or transaction which has been reviewed under the provisions of a ‘deemed scheme’ as defined in the Financial Services and Markets Act 2000 (Transitional Provisions) (Reviews of Pensions Business) Order 2001 (SI 2001/2512); and

(2) as a result of the review in (1) no redress was payable, or redress was paid, in accordance with the regulatory standards for the review of such events or transactions, and the terms of any scheme order, applicable as at the date of the review.

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

8.3.1 The FSCS may withdraw any offer of compensation made to a claimant if the offer is not accepted or if it is not disputed within 90 days of the date on which the offer is made.

8.3.2 Where the amount of compensation offered is disputed, the FSCS may withdraw the offer but must consider exercising its powers to make a reduced or interim payment under COMP 11.2.4 R or COMP 11.2.5 R before doing so.

8.3.3 The FSCS may repeat any offer withdrawn under COMP 8.3.1 R or COMP 8.3.2 R.

8.3.4 The FSCS must withdraw any offer of compensation if it appears to the FSCS that no such offer should have been made.

8.3.5 The FSCS must seek to recover any compensation paid to a claimant if it appears to the FSCS that no such payment should have been made, unless the FSCS believes on reasonable grounds that it would be unreasonable to do so, or that the costs of doing so would exceed any amount that could be recovered.
Chapter 9

Time limits on payment and postponing payment
9.1 Application and Purpose

Application

9.1.1 R This chapter applies to the FSCS.

9.1.2 G It is also relevant to claimants.

Purpose

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

9.2.1 [deleted]

9.2.1A [deleted]

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

1. it is satisfied that the conditions in COMP 3.2.1 R have been met; and

2. it has calculated the amount of compensation due to the claimant;

and in any event within:

3. three months of that date, unless the FCA has granted the FSCS an extension, in which case payment must be made no later than six months from that date.

9.2.2 The FSCS may postpone paying compensation if:

1. in the case of a claim against a relevant person who is an appointed representative, the FSCS considers that the claimant should make and pursue an application for compensation against the appointed representative’s relevant principal; or

2. in the case of a claim relating to protected investment business which is not an ICD claim 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. [deleted]

4. the claim is one which falls within COMP 12.4.5 R or COMP 12.4.7 R and it is not practicable for payment to be made within the usual time limits laid out in COMP 9.2.1 R; or

5. the claimant has been charged with an offence arising out of or in relation to money laundering, and those proceedings have not yet been concluded.

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

(1) the FSCS considers it likely that the insolvency practitioner would, in due course, return the assets to the claimant;

(2) the claimant has agreed to be compensated for the assets on the basis of the valuation provided by the FSCS; and

(3) the claimant has agreed, to the satisfaction of the FSCS, that his rights to the assets in respect of which compensation is payable should pass to it.
Chapter 10

Limits on the amount of compensation payable
10.1 Application and Purpose

Application
10.1.1 R This chapter applies to the FSCS.
10.1.2 G It is also relevant to claimants.

Purpose
10.1.3 G In most cases it is appropriate for there to be a limit on the amount of compensation payable by the FSCS and that there should be some part of the claim which is not compensatable and for which the claimant must bear the loss. The purpose of this chapter is to set these limits out.
10.1.4 G [deleted]
10.2 Limits on compensation payable

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

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

Table Limits
This table belongs to COMP 10.2.1R

<table>
<thead>
<tr>
<th>Type of claim</th>
<th>Level of cover</th>
<th>Maximum payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protected investment business (except where the designated investment is a long-term care insurance contract that is a pure protection contract)</td>
<td>100% of claim</td>
<td>£85,000</td>
</tr>
<tr>
<td>Protected investment business where the designated investment is a long-term care insurance contract that is a pure protection contract</td>
<td>100% of claim</td>
<td>Unlimited</td>
</tr>
<tr>
<td>Protected home finance mediation</td>
<td>100% of claim</td>
<td>£85,000</td>
</tr>
<tr>
<td>Protected non-investment insurance distribution</td>
<td>(1) where the claim is in respect of a liability subject to compulsory insurance: 100% of claim</td>
<td>Unlimited</td>
</tr>
<tr>
<td></td>
<td>(2) where the claim is in respect of:</td>
<td>Unlimited</td>
</tr>
<tr>
<td></td>
<td>(a) a relevant omission; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) a professional indemnity insurance contract, or would be in respect of a professional indemnity</td>
<td></td>
</tr>
</tbody>
</table>
### COMP 10: Limits on the amount of compensation payable

#### Section 10.2: Limits on compensation payable

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

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

**10.2.5** COMP 12.4.4 R includes further limits relating to ICD claims against certain incoming EEA firms. These reflect the Investor Compensation 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** 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.

**10.2.6** [deleted]

**10.2.7** [deleted]
Claims against more than one member in respect of a single protected contract of insurance to be treated as a single claim

10.2.8 R

Claims arising under COMP 3.2.4 R

10.2.9 R

If a firm has a claim under COMP 3.2.4 R, the FSCS must treat the share of the shortfall of each customer as if it were a protected claim for the purposes of calculating the limits of compensation payable, within COMP 10.2, in relation to that customer.

10.2.10 R [deleted]

10.2.11 R [deleted]

10.2.12 R [deleted]

10.2.13 G [deleted]
Chapter 11

Payment of compensation
11.1 Application and Purpose

Application

11.1.1 R This chapter applies to the FSCS.

11.1.2 G It is also relevant to claimants.

Purpose

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

To whom must payment be made?

11.2.1 [deleted]

11.2.1A 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 or COMP 11.2.2AR apply.

11.2.1B [deleted]

11.2 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.

11.2.2A 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 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.

11.2.3 [deleted]
Form and method of paying compensation

11.2.3A  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 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 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 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 COMP 11.2.4 R applies to compensation payable in connection with any protected claim. It would, for example, apply to the situation where the FSCS considers it imprudent to make a payment in full because of uncertainty as to the value a court might attribute to a bonus provided for under a long-term insurance contract. In such circumstances the FSCS may make payment.
of compensation on account to the policyholder in respect of benefits under the contract the value of which is not uncertain.

### Paying interest on compensation

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

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

### Paying full compensation in return for rights

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

(1) receive whether by assignment, transfer or operation of law the whole or any part of a claimant's rights against the *relevant person* (or, where applicable, a *successor*), or against any third party, or both on such terms as the FSCS thinks fit; and

(2) disregard the value of the rights so received in determining the claimant's overall *claim*.

11.2.10 **G** Factors that the FSCS may take into account when considering taking the approach in ▼ COMP 11.2.9R (1) and ▼ COMP 11.2.9R (2) include whether the amount of claimants' overall *claims* are likely to be assessed within a reasonable time frame, the circumstances of the claimants, the circumstances of the *claims* and the nature of the products to which the *claims* relate.
Chapter 12

Calculating compensation
12.1 Application and Purpose

Application

12.1.1 R This chapter applies to the FSCS.

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

Purpose

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

12.2.2 R COMP 12.2.1AR is, however, subject to the other provisions of COMP, in particular those rules that set limits on the amount of compensation payable for various types of protected claim. The limits are set out in COMP 10.

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 claim protected by the compensation scheme whether under the rules of the FCA (see COMP 5.2.1 R) or of the PRA, for example a claim in connection with money held by a 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 10.2.2 G).

12.2.5 G For the different categories of protected claim, see COMP 5 and COMP 10.2.3 R.

12.2.6 G In calculating the claimant’s overall claim, the FSCS may rely, to the extent that it is relevant, on any determination by:

(1) a court of competent jurisdiction;
(2) a trustee in bankruptcy;
(3) a liquidator;
(4) any other recognised insolvency practitioner;
and on the certification of any net sum due which is made in default proceedings of any exchange or clearing house.

Payments to the claimant

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

Time for calculation of compensation due to the claimant

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

Settlement of claims

12.2.10
(1) The FSCS may pay compensation without fully or at all investigating the eligibility of the claimant and/or the validity and/or amount of the claim notwithstanding any provision in this sourcebook or FEES 6 to the contrary, if in the opinion of the FSCS:

(a) the costs of investigating the merits of the claim are reasonably likely to be disproportionate to the likely benefit of such investigation; and

(b) (as a result or otherwise) it is reasonably in the interests of participant firms to do so.

(2) This rule does not apply with respect to claims that are excluded by article 3 of the Investor Compensation Directive.
12.3 Quantification date

Protected investment business

12.3.5 For a claim made in connection with protected investment business which is not an ICD claim, the FSCS must determine a specific date as the quantification date, and this date may be either on, before or after the date of the determination of default.

12.3.6 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.

Protected home finance mediation

12.3.7 For a claim made in connection with protected home finance mediation, the FSCS must determine a specific date as the quantification date, and this date may be either on, before or after the date of determination of default.

Protected non-investment insurance distribution

12.3.8 For a claim made in connection with protected non-investment insurance distribution, the FSCS must determine a specific date as the quantification date, and this date may be either on, before or after the date of determination of default.

Protected debt management business

12.3.9 For a claim made in connection with protected debt management business, the FSCS must determine a specific date as the quantification date, and this date may be either on, before or after the date of determination of default.
12.4 The compensation calculation

Protected investment business: general

12.4.2 The FSCS may pay compensation for any claim made in connection with protected investment business which is not:

(1) a claim for property held; or

(2) a claim arising from transactions which remain uncompleted at the quantification date;

only to the extent that the FSCS considers that the payment of compensation is essential in order to provide the claimant with fair compensation.

12.4.3 The FSCS must not pay compensation for any claim in connection with protected investment business to the extent that it relates to or depends on:

(1) a failure of investment performance to match a guarantee given or representation made; or

(2) a contractual obligation to pay or promise to pay which the FSCS considers to have been undertaken without full consideration passing to the relevant person or in anticipation of possible insolvency; or

(3) the mere fluctuation in the value of an investment.

12.4.4 If the claimant has an ICD claim against an incoming EEA firm which is 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.

Protected investment business: claims covered by the pensions review

12.4.5 If the claimant has a claim in connection with protected investment business relating to the fact that the claimant has:

(1) while eligible or reasonably likely to become eligible to be a member of an occupational pension scheme, instead become a member of a personal pension scheme or entered into a retirement annuity; or
(2) ceased to be a member of, or to pay contributions to, an occupational pension scheme, and has instead become a member of a personal pension scheme or entered into a retirement annuity; or

(3) transferred to a personal pension scheme accrued rights under an occupational pension scheme which is not a defined contribution (money purchase) scheme; or

(4) ceased to be a member of an occupational pension scheme and has instead (by virtue of such a provision as is mentioned in section 591(2)(g) of the Income and Corporation Taxes Act 1988) entered into arrangements for securing relevant benefits by means of an annuity;

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

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

(1) assessing whether a relevant person has complied with the relevant regulatory requirements;

(2) assessing whether non-compliance has caused the claimant loss; and

(3) calculating the amount of compensation due (where the FSCS may rely on calculations made by the FCA or any previous regulator of the relevant person);

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

Protected investment business: FSAVC Review

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

(1) assessing whether the relevant person has complied with the relevant regulatory requirements;

(2) assessing whether non-compliance has caused the claimant loss; and

(3) calculating the compensation due (where the FSCS may rely on calculations made by the FCA or any previous regulator of the relevant person);

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

Protected investment business: excessive benefits

The FSCS may decide to reduce the compensation that would otherwise be payable for a claim made in connection with protected investment business that is not an ICD claim, if it is satisfied that:
(1) there is evidence of contributory negligence by the claimant; or
(2) payment of the full amount would provide a greater benefit than the claimant might reasonably have expected or than the benefit available on similar investments with other relevant persons; and it would be inequitable for the FSCS not to take account of (1) or (2).

12.4.16 [deleted]

Protected home finance mediation

12.4.17 The FSCS may pay compensation for any claim made in connection with protected home finance mediation only to the extent that the FSCS considers that the payment of compensation is essential in order to provide the claimant with fair compensation.

12.4.18 The FSCS must not pay compensation for any claim in connection with protected home finance mediation to the extent that it relates or depends on:

(1) a failure of investment performance to match a guarantee given or representation made; or
(2) the mere fluctuation in the value of property

12.4.19 The FSCS may decide to reduce the compensation that would otherwise be payable for a claim made in connection with protected home finance mediation if it is satisfied that there is evidence of contributory negligence by the claimant and it would be inequitable for FSCS not to take account of that fact.

Protected non-investment insurance distribution

12.4.20 The FSCS may pay compensation for any claim made in connection with protected non-investment insurance distribution only to the extent that the FSCS considers that the payment of compensation is essential in order to provide the claimant with fair compensation.

12.4.21 The FSCS may decide to reduce the compensation that would otherwise be payable for a claim made in connection with protected non-investment insurance distribution if it is satisfied that:

(1) there is evidence of contributory negligence by the claimant; or
(2) payment of the full amount would provide a greater benefit than the claimant might reasonably have expected or than the benefit available on similar contracts with other relevant persons; and

it would be inequitable for FSCS not to take account of (1) or (2).

**Protected debt management business**

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

**Consumer redress schemes**

12.4.22  For a claim which falls to be dealt with (or has properly been dealt with) under a consumer redress scheme, the FSCS must apply the scheme in:

1. assessing whether a relevant person has complied with the relevant regulatory requirements;
2. assessing whether non-compliance has caused the claimant loss; and
3. calculating the compensation due (where the FSCS may rely on calculations made by the FCA or other competent persons acting on the FCA’s behalf or authorised to make them under the scheme);

unless the FSCS considers that departure from the scheme is essential in order to provide the claimant with fair compensation.
12.5 [deleted]

12.5.1 [deleted]

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

[Note: COMP 12.6.1R now appears at COMP 12A.1.1R]
[Note: COMP 12.6.2R now appears at COMP 12A.1.2R]
[Note: COMP 12.6.2AR now appears at COMP 12A.1.3R]
[Note: COMP 12.6.3R now appears at COMP 12A.1.4R]
[Note: COMP 12.6.4R now appears at COMP 12A.1.5R]
[Note: COMP 12.6.5R now appears at COMP 12A.1.6R]
[Note: COMP 12.6.6R now appears at COMP 12A.1.7R]
[Note: COMP 12.6.8R now appears at COMP 12A.2.1R]
[Note: COMP 12.6.9R now appears at COMP 12A.2.2R]
[Note: COMP 12.6.10R now appears at COMP 12A.2.3R]
[Note: COMP 12.6.11R now appears at COMP 12A.4.1R]
[Note: COMP 12.6.12R now appears at COMP 12A.5.1R]
Section 12.6: Quantification: trustees, operators of pension schemes, persons winding up pension schemes, personal...
12A.1  Trustees and pension schemes

12A.1.1  If a claimant’s claim includes a claim as:

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

the FSCS must treat him in respect of that claim as if his claim was the claim of a different person.

[Note: this and other rules in this section derive from provisions previously in COMP 12.6]

12A.1.2  If a claimant has a claim as a bare trustee or nominee company for one or more beneficiaries, the FSCS must treat the beneficiary or beneficiaries as having the claim, and not the claimant.

12A.1.3  If a claimant has a claim:

1. as the trustee of an occupational pension scheme or the trustee or operator of, or the person carrying on the regulated activity of winding up, a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme; and
2. for one or more members of a pension scheme (or, where relevant, the beneficiary of any member) whose benefits are, or include, money-purchase benefits;

the FSCS must treat the member or member scheme (or, where relevant, the beneficiary of any member) as having the claim, and not the claimant (insofar as members’ benefits are money-purchase benefits).

12A.1.4  If any group of persons has a claim as:

1. trustees; or
2. operators of, or as persons carrying on the regulated activity of winding up, a stakeholder pension scheme (which is not an occupational pension scheme) or personal pension scheme,
(or any combination thereof), the FSCS must treat them as a single and continuing person distinct from the persons who may from time to time be the trustees, operators or persons winding up the relevant pension scheme.

12A.5 Where the same person has a claim as:

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

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

12A.6 Where the claimant is a trustee, and some of the beneficiaries of the trust are persons who would not be eligible claimants if they had a claim themselves, the FSCS must adjust the amount of the overall claim to eliminate the part of the claim which, in the FSCS’s view, is a claim for those beneficiaries.

12A.7 Where any of the provisions of COMP 12A.1.1R to COMP 12A.1.6R apply, the FSCS must try to ensure that any amount paid to:

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

is, in each case:

3. for the benefit of members or beneficiaries who would be eligible claimants if they had a claim themselves; and
4. no more than the amount of the loss suffered by those members or beneficiaries.
Where a person numbers among his claims a claim as the personal representative of another, the FSCS must treat him in respect of that claim as if he were standing in the shoes of that other person.

[Note: this and other rules in this section derive from provisions previously in COMP 12.6]

If a claimant has a claim as agent for one or more principals, the FSCS must treat the principal or principals as having the claim, not the claimant.

If two or more persons have a joint beneficial claim, the claim is to be treated as a claim of the partnership if they are carrying on business together in partnership. Otherwise each of those persons is taken to have a claim for his share, and in the absence of satisfactory evidence as to their respective shares, the FSCS must regard each person as entitled to an equal share.
12A.3 Collective investment schemes

(1) If a claimant has a claim in its capacity as a collective investment scheme, or anyone who is an operator, depositary, manager or trustee of such a scheme, and the conditions in (2) are met:

(a) the FSCS must treat the participant or participants as having the claim, and not the claimant;

(b) COMP 12A.1.6R and COMP 12A.1.7R apply, reading “trustee” as “collective investment scheme, or anyone who is an operator, depositary, manager or trustee of such a scheme”, “trust” as “collective investment scheme” and “beneficiary” as “participant”.

(2) The conditions referred to in (1) are:

(a) the claim is against a relevant person:

(i) acting in the capacity of manager or depositary of the collective investment scheme; or

(ii) in connection with that person’s managing investments or safeguarding and administering investments; and

(b) as a result of the matters in (a), a participant in the collective investment scheme has suffered loss but the participant has no claim for that loss against that relevant person.
In applying COMP to claims arising out of business done with a branch or establishment of the relevant person outside the United Kingdom, the FSCS must interpret references to:

(1) persons entitled as personal representatives, trustees, bare trustees or agents, operators of pension schemes or persons carrying on the regulated activity of winding up pension schemes; or

(2) persons having a joint beneficial claim or carrying on business in partnership;

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

[Note: this rule derives from a provision previously in COMP 12.6]
12A.5  Claims arising under COMP 3.2.4R

12A.5.1  If a firm has a claim under COMP 3.2.4R, the FSCS must treat each customer of the firm as having the claim for the purposes of calculating compensation within COMP 12.

[Note: this rule derives from a provision previously in COMP 12.6]
Chapter 13
Funding
[deleted: the provisions in relation to the funding of the Financial Services Compensation Scheme are set out in FEES 6 (Financial Services Compensation Scheme Funding)]
Chapter 14

Participation by EEA Firms
14.1 Application and Purpose

Application

14.1.1 This chapter applies to the FSCS.

14.1.2 This chapter also applies to an incoming EEA firm which is a MiFID investment firm, an IDD insurance intermediary, a UCITS management company, an MCD mortgage credit intermediary or an AIFM.

Purpose

14.1.3 This chapter provides supplementary rules and guidance, and contains a broad summary, in guidance, of FSCS cover, for an incoming EEA firm which is an IDD insurance intermediary, a MiFID investment firm, a UCITS management company, an MCD mortgage credit intermediary or an AIFM. It reflects in part the implementation of the Investor Compensation Directive and UCITS Directive.

14.1.4 (1) An incoming EEA firm, which is an IDD insurance intermediary, an MCD mortgage credit intermediary or a MiFID investment firm is not a participant firm in relation to its passported activities unless it "tops-up" into the compensation scheme. This reflects section 213(10) of the Act (The compensation scheme) and regulation 2 of the Electing Participants Regulations (Persons not to be regarded as relevant persons). If an incoming EEA firm also carries on non-passported activities for which the compensation scheme provides cover, it will be a participant firm in relation to those activities and will be covered by the compensation scheme for those activities in the usual way.

(2) Whether an incoming EEA firm which is an EEA UCITS management company is a participant firm in relation to its passported activities depends on the nature of its activities. In so far as it carries on the activities of managing investments (other than collective portfolio management), advising on investments or safeguarding and administering investments, it is not a participant firm unless it "tops-up" into the compensation scheme and it may only obtain top-up cover if it carries on those activities from a branch in the United Kingdom. To the extent that such a firm provides collective portfolio management services for a UCITS scheme from a branch in the United Kingdom or under the freedom to
For an incoming EEA firm which is an AIFM, the question of whether it is a participant firm for its passported activities depends on the type of activities it carries on under that passport. If it manages an authorised AIF from a branch in the UK or under the freedom to provide cross-border services, it is a participant firm for that activity. If it manages an unauthorised AIF, or provides the services in article 6(4) of AIFMD from a branch in the UK or on a cross-border services basis, it is not a participant firm for that activity; however, it may choose to obtain top-up cover for those activities if carried on from a branch in the UK.

In relation to an incoming EEA firm’s passported activities, its Home State compensation scheme must provide compensation cover in respect of business within the scope of the Investor Compensation Directive, article 6(3) of the UCITS Directive and article 6(4) of AIFMD, whether that business is carried on from a UK branch or on a cross border services basis. Insurance distribution activity is not within the scope of the Investor Compensation Directive.

If there is no cover provided by the incoming EEA firm’s Home State or the scope and/or level of cover is less than that provided by the compensation scheme, this chapter enables the firm to obtain cover or ‘top-up’ cover from the compensation scheme for its passported activities carried on from a UK branch, up to the compensation scheme’s limits (set out in COMP 10). This reflects section 214(5) of the Act (General) and regulation 3 of the Electing Participants Regulations (Persons who may elect to participate). If the firm ‘tops up’ and then becomes insolvent, the Home State compensation scheme will pay compensation up to the limit and scope of the Home State compensation scheme, with the FSCS paying compensation for the additional amount in accordance with the provisions in this sourcebook (COMP 12.4.1 R and COMP 12.4.4 R).
14.2 Obtaining top-up cover

14.2.1  
An incoming EEA firm may, by notice in writing to the FSCS, elect to receive top-up cover from the compensation scheme if it falls within one of the categories prescribed in regulation 3 of the Electing Participants Regulations (Persons who may elect to participate).

14.2.2  
An election under ▲ COMP 14.2.1 R takes effect on the date when the FSCS notifies the incoming EEA firm that its election has been accepted.

14.2.3  
A notice under ▲ COMP 14.2.1 R should include details confirming that the incoming EEA firm falls within a prescribed category. In summary:

(1) the firm must be:
   (a) [deleted]
   (b) an IDD insurance intermediary; or
   (c) a MiFID investment firm; or
   (d) a UCITS management company that carries on the activities of managing investments (other than collective portfolio management), advising on investments or safeguarding and administering investments;
   (e) an AIFM that carries on AIFM management functions for an unauthorised AIF; or
   (f) an AIFM that provides the services in article 6(4) of AIFMD;
   (g) an MCD mortgage credit intermediary

(2) the firm must have established a branch in the United Kingdom in the exercise of an EEA right; and

(3) the scope and/or level of cover provided by the firm’s Home State compensation scheme must be less than that provided by the compensation scheme.

14.2.4  
When the FSCS accepts an application, it must allocate the incoming EEAfirm to the contribution group (or groups) which seems to the FSCS to be most appropriate, taking into account the nature of the business for which the incoming EEA firm is seeking cover from the compensation scheme.
The FSCS must put in place and publish procedures to enable an appeal by an incoming EEA firm against a rejection by the FSCS of an election to receive top-up cover or a decision to allocate an incoming EEA firm, once the firm's election has been accepted, to a particular contribution group. Such procedures must satisfy the minimum requirements of procedural fairness and comply with the European Convention on Human Rights.
14.3 Co-operation between the FSCS and Home State compensation schemes

14.3.1 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 Investor Compensation Directive.
14.4 Ending top-up cover

FSCS terminating top-up cover

14.4.1 The FSCS must terminate an incoming EEA firm’s top-up cover where it has ascertained that the conditions in COMP 14.2.1 R are no longer satisfied.

14.4.2 If an incoming EEA firm which has top-up cover fails to observe any of the rules in this sourcebook which apply to participant firms, the FSCS must notify the FCA and the incoming EEA firm’s Home State regulator.

14.4.3 In cases where COMP 14.4.2 R applies, the FSCS must co-operate with the incoming EEA firm’s Home State regulator so that appropriate measures can be taken to ensure that the incoming EEA firm meets its obligations under this sourcebook.

14.4.4 [deleted]

14.4.4A 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 protected investment business transacted before that termination.

14.4.4B

Resignation of an EEA firm from the compensation scheme

14.4.5 An incoming EEA firm which has top-up cover may terminate that top-up cover by giving six months’ notice in writing to the FSCS.

Notice to customers and the FSCS

14.4.6 When an incoming EEA firm’s top-up cover comes to an end under COMP 14.4.1 R, COMP 14.4.4 R or COMP 14.4.5 R, 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

(2) within two months, notify the FSCS whether it has done so.

14.4.7 If an incoming EEA firm fails to comply with COMP 14.4.6R (1), the FSCS must inform the firm's Home State regulator of that fact.

14.4.8 The FSCS must bring the ending of an incoming EEA firm's top-up cover to the attention of the incoming EEA firm's clients by means of a public notice.
Where an EEA UCITS management company provides collective portfolio management services for a UCITS scheme from a branch in the United Kingdom, or under the freedom to provide cross border services, the FSCS must allocate the firm to the class or classes which seems to the FSCS to be most appropriate, taking into account the nature of the firm's business activities.
## COMP TP 1
### Transitional Provisions

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<td>(3)</td>
<td>A claim in connection with protected investment business includes a claim in respect of a pending application.</td>
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<td>(4)</td>
<td>Where the claim is in respect of a pending application, the FSCS must apply the rules of the relevant former scheme, as they applied to the default before commencement.</td>
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<td>(5)</td>
<td>The rules of each investment business compensation scheme are amended so that references to the person managing the scheme are replaced by references to the FSCS.</td>
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<td>(8)</td>
<td>Where the default occurs after commencement, a claim in connection with protected investment business includes a claim that could have been entertained under an investment business compensation scheme (provided that the person making the claim has not also made a pending</td>
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<td>2</td>
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<td>The amendment of all references in COMP (other than in the heading in respect of COMP 12.3.4 R) to “overall net claim” to “overall claim”</td>
<td>R</td>
<td>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.</td>
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<tr>
<td>27</td>
<td>COMP 4.2.2 R(9)</td>
<td>R</td>
<td>The changes referred to in (2), made by the Compensation Sourcebook (Occupational Pension Scheme Trustees) Instrument 2011 do not apply in relation to a claim against a relevant person that was in default before 1 October 2011.</td>
<td>From 1 October 2011 indefinitely</td>
<td>From 1 October 2011</td>
</tr>
<tr>
<td>28</td>
<td>COMP 16.3</td>
<td>R</td>
<td>[deleted]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>COMP 17</td>
<td>R</td>
<td>[deleted]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>COMP 17.3 and COMP 17.2.7 R</td>
<td>R</td>
<td>[deleted]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>COMP 17.3</td>
<td>R</td>
<td>[deleted]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>COMP 17.3.10 R and COMP 17.3.12 R</td>
<td>R</td>
<td>[deleted]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>33</td>
<td>Amendments introduced by Annex A and Part 1 of Annex B of the Compensation Sourcebook (Amendment No 9) Instrument 2012.</td>
<td>R</td>
<td>The changes referred to in (2) do not apply in relation to a claim against a relevant person that was in default before 1 October 2012. Notwithstanding the above the changes to COMP 12.2.10 R apply irrespective of when the default occurred.</td>
<td>From 1 October 2012 indefinitely</td>
<td>From 1 October 2012</td>
</tr>
<tr>
<td>34</td>
<td>Amendments introduced by the Compensation</td>
<td>R</td>
<td>The changes referred to in (2) do not apply in relation to a claim against a relevant person that was in default before 13 December 2013.</td>
<td>From 13 December 2013 indefinitely</td>
<td>From 13 December 2013</td>
</tr>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
</tr>
<tr>
<td>-----</td>
<td>-----</td>
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<td>-----</td>
</tr>
<tr>
<td>35</td>
<td>All the rules and guidance in COMP applicable to protected home finance mediation.</td>
<td>R</td>
<td>The compensation scheme does not provide cover for claims in respect of any mortgage mediation activity relating to a second charge regulated mortgage contract if:</td>
<td>From 21 March 2016 indefinitely</td>
<td>Not applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) the relevant person was in default before 21 March 2016; or</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(2) the basis for the claim arose before 21 March 2016.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

35 Amendments introduced by the Compensation Sourcebook (Large unincorporated associations) Instrument 2013

36 COMP 17.2.1 R and COMP 17.2.3 R

37 COMP 10.2.3R(2), (3) and (4)

38 COMP 4.2.2R(4), COMP 4.2.2R(9) and COMP 12.6.2AR

The rules referred to in (2) do not apply in relation to a claim against a relevant person, or against a successor, that was in default before 29 April 2016. Instead, COMP 10.2.3R(5) will continue to apply to such claims.

The changes referred to in (2) do not apply to a claim against a relevant person, or against a successor, that was in default before 29 April 2016.

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

Schedule 1
Record-keeping requirements

Sch 1.1 G

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

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

Sch 1.2 G

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>FEES 6.3.14 R</td>
<td>FSCS funding</td>
<td>Full details of the movement of funds within sub-schemes.</td>
<td>Ongoing requirement.</td>
<td>N/A</td>
</tr>
<tr>
<td>[deleted]</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>[deleted]</td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
Compensation

Schedule 2
Notification requirements

Sch 2.1 G

1. The aim of the guidance in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting. In all cases, other than those concerning Chapter 14 and the Transitional Provisions, the notification rules in COMP apply only to the FSCS (the scheme manager).

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

Sch 2.2 G

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMP 2.2.5G</td>
<td>Annual Report</td>
<td>Not specified in COMP - see Memorandum of Understanding (MoU) between the FCA and the FSCS</td>
<td>End of Financial Year</td>
<td>Not specified in COMP (see MoU)</td>
</tr>
<tr>
<td>COMP 2.2.7R</td>
<td>Default of relevant person or successor</td>
<td>Not specified - although the FSCS must take appropriate steps to ensure claimants are informed about how they can claim compensation</td>
<td>default of a relevant person or successor</td>
<td>Not specified - but as soon as practicable after determining default</td>
</tr>
<tr>
<td>FFEES 6.2.1AR</td>
<td>Right to exemption for specific costs and compensation costs levy</td>
<td>Notice that firm does not conduct business that could give rise to a claim on the FSCS and has no reasonable likelihood of doing so</td>
<td>If it does not, or if it ceases to, conduct business with persons eligible to claim on the FSCS, unless it has already given such notice</td>
<td>None specified though exemption generally only takes effect from the date of receipt of notice by the FSCS</td>
</tr>
<tr>
<td>FFEES 6.2.4R</td>
<td>Loss of right to seek exemption from specific costs &amp; compensa-</td>
<td>Statement that firm no longer qualifies for exemption because</td>
<td>Firm loses the right to claim the exemption.</td>
<td>As soon as reasonably practicable</td>
</tr>
<tr>
<td>Handbook reference</td>
<td>Matter to be notified</td>
<td>Contents of notification</td>
<td>Trigger event</td>
<td>Time allowed</td>
</tr>
<tr>
<td>--------------------</td>
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<td>---------------</td>
<td>--------------</td>
</tr>
<tr>
<td></td>
<td>pension costs levy</td>
<td>it carries on business with persons eligible to claim on FSCS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FFEES 6.5.13 R</td>
<td>Levy base for partici-pant firm</td>
<td>The contribution groups to which the participant firm belongs. The total amount of business (measured in accordance with the appropriate tariff bases, which it conducted as at 31 December of the previous year)</td>
<td>The end of the calendar year (the occasion of 31 December every year beginning with 31 December 2001)</td>
<td>By end February or the date requested by the FCA where the firm becomes a participant firm part way through the financial year</td>
</tr>
<tr>
<td>FEEES 6.7</td>
<td>Participant firms compensation levy for the financial year</td>
<td>Amount of levy payable by the participant firm</td>
<td>The decision by the FSCS that it must impose a levy</td>
<td>30 days before the levy is payable</td>
</tr>
<tr>
<td>COMP 14.2.1R</td>
<td>Application by eligible inward passporting EEA firm to obtain top-up cover into compensation scheme</td>
<td>That firm is qualifying incoming EEA firm. The sub-scheme(s) the firm wishes to participate in. Confirmation that the level or scope of cover offered by its home state scheme(s) is less than that available in the UK.</td>
<td>The firm’s decision that it wishes to obtain top-up cover into the UK scheme.</td>
<td>N/A</td>
</tr>
<tr>
<td>COMP 14.4.5R</td>
<td>Termination of top-up cover</td>
<td>Statement that incoming EEA firm is terminating top-up cover</td>
<td>Decision by firm to resign from FSCS</td>
<td>6 months notice</td>
</tr>
<tr>
<td>COMP 14.4.6R</td>
<td>Termination of inward passporting EEA firm’s top-up cover into compensation scheme</td>
<td>The firm’s resignation from the compensation scheme and the level of compensation available to clients of the firm’s UK branch following its decision to resign from FSCS</td>
<td>Termination of firm’s top-up cover</td>
<td>No later than six weeks after the end of the firm’s participation in compensation scheme</td>
</tr>
</tbody>
</table>
## Schedule 2
### Notification requirements

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matter to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>
### Compensation

#### Schedule 3

**Fees and other required payments**

<table>
<thead>
<tr>
<th>Sch 3.1 G</th>
</tr>
</thead>
<tbody>
<tr>
<td>The <em>rules</em> in FEES 6 give FSCS (the scheme manager) the power to raise levies on participant <em>firms</em> in order to meet its expenses. The <em>rules</em> in FEES 6 do not specify the amount of any levy but do specify how a participant <em>firm's</em> share of a levy is to be calculated and any limit on the amount leviable by the FSCS is a particular period.</td>
</tr>
</tbody>
</table>
Compensation

Schedule 4
Powers Exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
[deleted]

Sch 4.3 G
[deleted]
Compensation

Schedule 5
Rights of action for damages

Sch 5.1 G

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

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

3. In accordance with the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256) a "private person" is:
   i any individual, except when acting in the course of carrying on a regulated activity; and
   ii any person who is not an individual, except when acting in the course of carrying on business of any kind;
   but does not include a government, local authority or an international organisation.

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

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

Sch 5.2 G

<table>
<thead>
<tr>
<th>Chapter/Appendix</th>
<th>Section/Annex</th>
<th>Paragraph</th>
<th>For private person?</th>
<th>Removed</th>
<th>For other person?</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMP 1</td>
<td>5</td>
<td>8</td>
<td>No</td>
<td>Yes - COMP 1.5.12R</td>
<td>No</td>
</tr>
<tr>
<td>COMP 14.4.6R</td>
<td></td>
<td></td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>
Compensation

Schedule 6
Rules that can be waived

Sch 6.1 G
[deleted]

Sch 6.1 A G
As a result of section 138A of the Act (Modification or waiver of rules) the FCA has power to waive all its rules, other than rules made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the Act. However, if the rules incorporate requirements laid down in European directives, it will not be possible for the FCA to grant a waiver that would be incompatible with the United Kingdom’s responsibilities under those directives.