

## 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 **R** [deleted]
- 11.2.1A **R** If the *FSCS* determines that compensation is payable (or any recovery or other amount is payable by the *FSCS* to the claimant), it must pay it to the claimant, or if the *FSCS* so decides, as directed by the claimant, unless **■** COMP 11.2.2 R or **■** COMP 11.2.2AR apply.
- 11.2.1B **R**
- 11.2.2 **R** Where a claimant has a *protected claim* arising out of the circumstances described in **■** COMP 12.4.5 R, the *FSCS* must pay any compensation (and any recovery or other amount payable by the *FSCS* to the claimant) to:
  - (1) the trustee of an *occupational pension scheme*; or
  - (2) a *personal pension scheme* or other *product provider*; or
  - (3) both (1) and (2);
 and not to the claimant, unless exceptional circumstances apply.
- 11.2.2A **R** Where a claimant has a *claim* that falls within **■** COMP 12A.3.1R, the *FSCS* may pay any compensation to:
  - (1) the *participants* and not to the claimant; or
  - (2) the *collective investment scheme* and (where different) not to the claimant; or
  - (3) any combination of the above.
- 11.2.2B **G** As a result of **■** COMP 12A.3.1R, the *FSCS* must try to ensure that the amount paid is no more than the amount of the loss suffered by the *participant*.
- 11.2.3 **R**

**Form and method of paying compensation**

11.2.3A

**R**

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

- (1) by paying the compensation (on such terms as the *FSCS* considers appropriate) to an *authorised person* with *permission* to accept deposits which agrees to become liable to the claimant in a like sum;
- (2) by paying compensation directly into an existing deposit account of (or for the benefit of) the claimant, or as otherwise identified by (or on behalf of) the claimant, with an *authorised person* (but before doing so the *FSCS* must take such steps as it considers appropriate to verify the existence of such an account and to give notice to the claimant of its intention to exercise this power); and/or
- (3) [deleted]
- (4) by paying compensation to a *firm*, which makes a *claim* on behalf of its *clients*, if the *FSCS* is satisfied that:
  - (a) the business of a *relevant person in default* has been transferred to the *firm*;
  - (b) each *client* has a *claim* against the *relevant person in default* arising out of a *shortfall* in *client money* or *safe custody assets* held by the *relevant person in default*;
  - (c) the *clients* in respect of which compensation is to be paid satisfy the conditions set out in **COMP 3.2.2 R (1)**; and
  - (d) the *firm* has agreed, on such terms as the *FSCS* thinks fit, to pay, or credit the accounts of, without deduction, each *client*, that part of the compensation due to him.

**Reduced or interim payments**

11.2.4

**R**

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

11.2.5

**R**

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

11.2.6

**R**

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

11.2.6A

**G**

**COMP 11.2.4 R** applies to compensation payable in connection with any *protected claim*. It would, for example, apply to the situation where the *FSCS* considers it imprudent to make a payment in full because of uncertainty as to the value a court might attribute to a bonus provided for under a *long-term insurance contract*. In such circumstances the *FSCS* may make payment

of compensation on account to the policyholder in respect of benefits under the contract the value of which is not uncertain.

**Paying interest on compensation**

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

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

**Paying full compensation in return for rights**

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

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

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

