

## Chapter 6

# Relevant persons and successors in default

6.2 Who is a relevant person?

- 6.2.1

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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

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[deleted]
- 6.2.2A

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The *FSCS* may pay compensation in respect of the activities of a *relevant person*:

(1) (if it was a *firm*) whether or not it was acting within the scope of its *permission*;

(2) (if it was an *appointed representative*) whether or not it was acting within the scope of the business for which its *principal* had accepted responsibility;

(3) (if it was a *recognised investment exchange*) whether or not it was acting in accordance with any *recognition requirements* resulting from section 286 of the *Act* and relating to the *regulated activity* of operating a *multilateral trading facility* or operating an *organised trading facility*.

[**Note:** sections 39(3) and 213(3)(a) of the *Act*]
- 6.2.3

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A *pre-IP completion day incoming EEA firm* may be a *participant firm* in respect of acts or omissions before *IP completion day* that give rise to a *claim* against it.
- 6.2.4

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A *TP firm* to which regulation 8 or 11 of the *EU Exit Passport Regulations* applies, that is not to be regarded as a *relevant person* under section 213(9A) of the *Act* (as inserted by regulation 24 of the *EU Exit Passport Regulations*) is not a *participant firm*. A *TP firm* to which regulation 28 or 34 of the *EU Exit Passport Regulations* applies, that is not to be regarded as a *relevant person* under section 213(9A) of the *Act* (as inserted by regulation 70 of the *EU Exit Passport Regulations*) is not a *participant firm*. For the purposes of the *FCA's compensation rules*, this means that most (but not all) *TP firms* operating in the *UK* without an *establishment* are not *participant firms*.

### 6.2.5

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Schedule 6A to the *Act* sets out a procedure to enable the *FCA* to cancel or vary the *Part 4A permission* of a *person* who, it appears to the *FCA*, is not carrying on the *regulated activity* to which the *Part 4A permission* relates. In some cases, this may result in the *person* no longer being a *relevant person* following cancellation of all their *Part 4A permissions*. Paragraph 5 of Schedule 6A to the *Act* sets out a procedure for the subsequent annulment of the decision to cancel or vary the *person's Part 4A permission* in specified circumstances where the *FCA* is satisfied that it is just and reasonable to do so. Where the *FCA* grants an application for annulment, either with conditions or unconditionally, paragraph 6 of Schedule 6A to the *Act* sets out its effect, which includes that the cancellation or variation of the *Part 4A permission* is treated as if it had never taken place. As a result of the effect of the annulment, the *person* may therefore be a *relevant person* for the purposes of any *claims* which arise during the period in which the *person's Part 4A permission* was cancelled or varied.