

COMPENSATION SOURCEBOOK (AMENDMENT NO 7) INSTRUMENT 2006

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers);
 - (3) section 157(1) (Guidance);
 - (4) section 213 (The compensation scheme);
 - (5) section 214 (General);
 - (6) section 216 (Continuity of long-term insurance policies); and
 - (7) section 217 (Insurers in financial difficulties).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 June 2006.

Amendments to the Handbook

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

Citation

- E. This instrument may be cited as the Compensation Sourcebook (Amendment No 7) Instrument 2006.

By order of the Board
25 May 2006

Annex

Amendments to the Compensation sourcebook

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

Transitional Provisions						
		Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions coming into force
...						
	<u>15</u>	<u>COMP 5.4.4 R (4)(a) and 5.4.4 R (4)(b)</u>	<u>R</u>	<u>The changes to COMP 5.4.4 R (4) made in the Compensation Sourcebook (Amendment No 7) Instrument 2006 do not apply in relation to defaults declared before 6 June 2006.</u>	<u>Indefinitely</u>	<u>6 June 2006</u>

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3.3.1 R Securing continuity of long term insurance cover

The *FSCS* must make arrangements to secure continuity of insurance for an *eligible claimant* under a *protected contract of insurance* which is a *long term insurance contract* with a *relevant person*, if:

...

- (2) it is reasonably practicable to do so;
- (3) the cost of doing so would, in the opinion of the *FSCS* at the time it proposes to make the arrangements, be likely to be no more than the cost of paying compensation under COMP 3.2 in the opinion of the *FSCS* at the time it proposes to make the arrangements, it would be beneficial to the generality of *eligible claimants* covered by the proposed arrangements, and, in situations where the cost of securing continuity of insurance might exceed the cost of paying compensation under COMP 3.2, any additional cost is likely to be justified by the benefits; and

...

...

3.3.2 F R In making arrangements to secure continuity of insurance the FSCS must use its reasonable endeavours to seek the most cost-effective arrangements available.

3.3.3 R (1) ...

(a) ...

(b) ...

~~if at the time it proposes to take the measures, it considers that the cost of doing so is likely to be no more than the cost of paying compensation under COMP 3.2 if, in the opinion of the FSCS at the time it proposes to make the measures, it would be beneficial to the generality of eligible claimants covered by the proposed measures, and, in situations where the cost of taking those measures might exceed the cost of paying compensation under COMP 3.2, any additional cost is likely to be justified by the benefits.~~

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5.4.4 R For the purposes of COMP 5.4.3R and COMP 5.4.5R(1)(b), the situation of a risk or commitment is determined as follows:

...

(4) in cases not covered by (1) to (3):

(a) where the policyholder who first took out the contract of insurance is an individual, the risk or commitment is situated where he has his habitual residence at the date when the *contract of insurance* commenced;

(b) where the policyholder who first took out the contract of insurance is not an individual, the risk or commitment is situated where the establishment to which the risk or commitment relates is situated at the date when the *contract of insurance* commenced.

...

7.2.3 R

...

(3) If the FSCS makes recoveries through rights assigned under COMP 7.2.1R, it may deduct from any recoveries paid over to the claimant under COMP 7.2.4R part or all of its reasonable costs of recovery and of distribution (if any).

...

Notice to customers and the FSCS

14.4.6 R When an incoming *EEA firm's top-up cover* comes to an end under *COMP 14.4.1R, COMP 14.4.4R or COMP 14.4.5R*, it must:

(1) inform all the clients of its *UK branch* no later than six weeks after the date that its participation ends that they are no longer protected 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 R 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.

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