

**FINANCIAL SERVICES COMPENSATION SCHEME (EXTENSION OF SCOPE TO  
RECOGNISED INVESTMENT EXCHANGES) INSTRUMENT 2017**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
  - (2) section 137T (General supplementary powers);
  - (3) section 139A (Power of the FCA to give guidance);
  - (4) section 213 (The compensation scheme); and
  - (5) section 214 (General).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 3 January 2018 and immediately after those changes made by FCA 2017/58 that come into effect on 3 January 2018 have come into force.

**Amendments to the Handbook**

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary	Annex A
Fees manual (FEES)	Annex B
Compensation sourcebook (COMP)	Annex C

**Citation**

- E. This instrument may be cited as the Financial Services Compensation Scheme (Extension of Scope to Recognised Investment Exchanges) Instrument 2017.

By order of the Board  
7 December 2017

## Annex A

## Amendments to the Glossary of definitions

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

*compensation scheme* the Financial Services Compensation Scheme established under section 213 of the *Act* (The compensation scheme) ~~for compensating persons in cases where authorised persons and appointed representatives, or, where applicable, a successor or a tied agent of a firm, are unable, or are likely to be unable, to satisfy claims against them.~~

...

*financial year* (1) (in *DISP* and, *FEES 5* and *FEES 6*) the 12 months ending with 31 March.

...

*participant firm* (1) a firm other than:

- ~~(4)~~ an *incoming EEA firm* to the extent prescribed for the purposes of section 213(10) of the *Act* (The compensation scheme) under regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons), unless it has *top-up cover*;
- (a)

[Note: This covers certain *incoming EEA firms*: see *COMP 14.1* and *14.2*.]

- ~~(2)~~ a service company;

(b)

- ~~(3)~~ an *underwriting agent*, or *members' adviser*, in respect of *advising on syndicate participation at Lloyd's* or managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's;
- (c)

- ~~(4)~~ an *authorised professional firm* that is subject to the rules of the Law Society (England and Wales) or the Law Society of Scotland and with respect to its *regulated activities* participates in the relevant society's compensation scheme;
- (d)

- ~~(5)~~ an *ICVC*;

(e)

- ~~(6)~~ a *UCITS qualifier*;

(f)

- ~~(7)~~ in respect of the carrying on of *bidding in emissions*
  - ~~(g)~~ *auctions*, a *firm* that is exempt from *MiFID* under article ~~2(1)(i)~~ 2(1)(j);
  - ~~(8)~~ an *AIFM* *qualifier*;
  - ~~(h)~~
  - ~~(9)~~ an *operator of an electronic system in relation to lending* in
  - ~~(i)~~ respect of operating the system;
- (2) a recognised investment exchange but only insofar as it is operating a multilateral trading facility or operating an organised trading facility.

## Annex B

### Amendments to the Fees manual (FEES)

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

## 6 Financial Services Compensation Scheme Funding

### 6.1 Application

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General structure

- 6.1.4 G Section 213(3)(b) of the *Act* requires the *appropriate regulator* to make *rules* to enable the *FSCS* to impose levies on *authorised persons*, and on *recognised investment exchanges that are operating a multilateral trading facility or operating an organised trading facility*, in order to meet its expenses. These expenses include in particular expenses incurred, or expected to be incurred, in paying compensation, borrowing or insuring risks.

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### 6.4 Management expenses

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Base costs levy

- 6.4.5 R Subject to *FEES* 6.3.22R, the *FSCS* must calculate a *participant firm's* share of a *base costs levy* by:
- (1) for *recognised investment exchanges*, providing for £1,000 per *RIE* for each *financial year* of the *compensation scheme* (other than in the *financial year* in which the *recognised investment exchange* becomes a *participant firm*, when its share is nil);
  - (2) for other *participant firms*:
    - (+) identifying the *base costs* which the *FSCS* has incurred, or expects to incur, in the relevant ~~financial year~~ *financial year* of the *compensation scheme*, but has not yet levied and:
      - (a) ~~allocating 50% of those *base costs* as the sum to be levied on participants in activity groups A.1, A.3, A.4, A.5 and A.6 (as listed in *FEES* 4 Annex 1BR); and~~
      - (b) allocating 50% of those ~~base costs~~ *base costs* (less any

contribution to be made by recognised investment exchanges under (1)) as the sum to be levied on participants in all the activity groups listed in FEES 4 Annex 1AR;

- ~~(2)~~ calculating the amount of the *participant firm's* ~~regulatory costs~~ regulatory costs as a proportion of the total *regulatory costs* relating to all *participant firms* (other than recognised investment exchanges) for the relevant ~~financial year~~; financial year; and
- ~~(b)~~
- (a) if the *participant firm* belongs to any of the activity groups in (1)(a), imposed by the *PRA* in respect of those groups; and
- (b) if the *participant firm* belongs to any of the activity groups in (1)(b), imposed by the *FCA* in respect of those groups; and
- ~~(3)~~ applying the proportion calculated in ~~(2)(a)~~, if any to the sum in (1)(a), and the proportion calculated in ~~(2)(b)~~ (if any) (b) to the sum in ~~(1)(b)~~ (a).

...

New participant firms

- 6.4.8 R A firm or a recognised investment exchange which becomes a *participant firm* part way through a financial year of the *compensation scheme* will not be liable to pay a share of a *specific costs levy* made in that year.

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#### 6.4A Management expenses in respect of relevant schemes

Obligation on participant firm to pay

- 6.4A.1 R A *participant firm* (but not a recognised investment exchange) must pay to the *FSCS* a share of each *MERS* levy.

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#### 6.5 Compensation costs

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New participant firms

- 6.5.9 R A firm or a recognised investment exchange which becomes a *participant firm* part way through a financial year of the *compensation scheme* will not be liable to pay a share of a *compensation costs levy* made in that year.

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## 6 Annex 3AR Financial Services Compensation Scheme – classes

This table belongs to FEES 6.4.7AR and FEES 6.5.6AR

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	Investment
...	
<b>Class D2</b>	Investment intermediation
<b>Firms with permission for:</b>	Any of the following in relation to <i>designated investment business</i> :
	<i>dealing in investments as principal;</i>
	<i>dealing in investments as agent;</i>
	<i>MiFID business bidding;</i>
	<i>arranging (bringing about) deals in investments;</i>
	<i>making arrangements with a view to transactions in investments;</i>
	<i>advising on investments;</i>
	<i>basic advice;</i>
	<i>safeguarding and administering investments;</i>
	<i>arranging safeguarding and administering of assets;</i>
	<i>operating a multilateral trading facility;</i>
	<i>operating an organised trading facility;</i>
	<i>agreeing to carry on a regulated activity which is within any of the above;</i>
BUT excluding activities that relate to <i>long-term insurance contracts</i> or rights under a <i>stakeholder pension scheme</i> or a <i>personal pension scheme</i> .	
<b><u>Recognised investment exchanges</u></b>	<i><u>recognised investment exchanges that are operating a multilateral trading facility or operating an organised trading facility</u></i>
<b>Tariff base</b>	...

...

## Annex C

### Amendments to the Compensation sourcebook (COMP)

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

#### 5 Protected claims

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#### 5.2 What is a protected claim?

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

...

...

#### 5.5 Protected investment business

5.5.1 R *Protected investment business* is:

...

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

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

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#### TP 1 Transitional Provisions

TP 1.1 Transitional Provisions Table

(1)	(2)	(3)	(4)	(5)	(6)
	<b>Material to which the transitional provision applies</b>		<b>Transitional Provision</b>	<b>Transitional provision: dates in force</b>	<b>Handbook Provisions coming into</b>



					<b>force</b>
...					
<u>39A</u>	<u>Amendments introduced by the Financial Services Compensation Scheme (Extension of Scope to Recognised Investment Exchanges) Instrument 2017</u>	<u>R</u>	<u>The changes referred to in (2) do not apply in relation to a <i>claim</i> against a <i>recognised investment exchange</i>, or against a <i>successor</i>, arising from acts or omissions before 3 January 2018.</u>	<u>From 3 January 2018 indefinitely</u>	<u>3 January 2018</u>