

**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.~~

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

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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
- (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).~~

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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
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Class D2	Investment intermediation
Firms with permission for:	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> .	
<u>Recognised investment exchanges</u>	<i><u>recognised investment exchanges that are operating a multilateral trading facility or operating an organised trading facility</u></i>
Tariff base	...

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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*:

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5.5 Protected investment business

5.5.1 R *Protected investment business* is:

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(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)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions coming into

					force
...					
<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>