

COMPENSATION SOURCEBOOK (INSURANCE MEDIATION AND PROTECTED CONTRACTS OF INSURANCE) (SCOPE AMENDMENT) INSTRUMENT 2004

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); and
 - (5) section 214 (General).
- 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 14 January 2005.

Amendments to the Compensation sourcebook

- D. The Compensation sourcebook is amended in accordance with Annex A to this instrument.

Amendments to the Glossary

- E. The Glossary is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Compensation Sourcebook (Insurance Mediation and Protected Contracts of Insurance) (Scope Amendment) Instrument 2004.

By order of the Board
18 November 2004

Annex A

Amendments to the Compensation sourcebook

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

- 4.2.2 R Table: Persons not eligible to claim unless *COMP* 4.3 applies (see *COMP* 4.2.1R)

This table belongs to *COMP* 4.2.1R

	...
(17)	<u>Where the <i>claim</i> is in relation to a <i>protected contract of insurance</i> or <i>protected non-investment insurance mediation, bodies corporate, partnerships, mutual associations and unincorporated associations which are not small businesses.</i></u>

...

- 4.3.4 R A ~~person coming~~ partnership which falls within category 14 or category 17 or both of *COMP* 4.2.2R is eligible to claim compensation in respect of a *relevant general insurance contract* entered into before *commencement*.

...

- 5.7.1 R *Protected non-investment insurance mediation* is an *insurance mediation activity* where the *investment* concerned is a *relevant general insurance contract* or a *pure protection contract* but ~~*non-investment insurance contract*~~ which is not a *long-term care insurance contract* or a *reinsurance contract*, provided that the condition in *COMP* 5.7.2R is satisfied.

- 5.7.2 R *COMP* 5.7.1R only applies if the conditions in (1) and (2) are satisfied:

(1) the *protected non-investment insurance mediation* was carried on from:

~~(1)~~ an establishment of the *relevant person* in the *United Kingdom*; or
(a)

~~(2)~~ a *branch* of a *UK firm* established in another *EEA State* in the exercise of an *EEA right* derived from the *IMD*; and
(b)

(2) the *customer* making the *claim* (or where *COMP* 3.2.4R applies, the *customer* on behalf of whom a *firm* makes a *claim*) was in contact with:

(a) a *firm* carrying on an *insurance mediation activity* in the *United Kingdom*; or

(b) a *branch* of a *UK firm* established in another *EEA State*

which is carrying on an insurance mediation activity in the exercise of an EEA right derived from the IMD.

...

6.2.2 G An incoming EEA firm, which is a credit institution, an IMD insurance intermediary, ~~an IMD reinsurance intermediary~~, an ISD investment firm or a UCITS management company, and its appointed representatives are not relevant persons in relation to the firm's passported activities, unless it has top-up cover (and in the case of a UCITS management company, only in relation to managing investments (other than of a collective investment scheme), advising on investments or safeguarding and administering investments). (See definition of "participant firm").

...

13.3.1A R COMP 13.3.1R does not apply to a participant firm that may be subject to a claim under COMP 3.2.4R.

13.3.1B G A participant firm to which COMP 13.3.1AR applies must report annual eligible income in accordance with COMP 13.6.11R. Such a participant firm may take advantage of the option to report its annual income attributable to business conducted with or on behalf of eligible claimants.

...

13.7.1 R If an incoming EEA firm, which is a BCD credit institution, an IMD insurance intermediary, ~~an IMD reinsurance intermediary~~ or ISD investment firm, is a participant firm, the FSCS must give the firm such discount (if any) as is appropriate on the share of any levy it would otherwise be required to pay, taking account of the nature of the levy and the extent of the compensation coverage provided by the firm's Home State scheme.

...

14.1.2 R This chapter also applies to an incoming EEA firm which is a credit institution, or an ISD investment firm (or both), an IMD insurance intermediary, ~~an IMD reinsurance intermediary~~ or a UCITS management company.

14.1.3 G This chapter provides supplementary rules and guidance for an incoming EEA firm which is a credit institution, an IMD insurance intermediary, ~~an IMD reinsurance intermediary~~, an ISD investment firm or UCITS management company. It reflects in part the implementation of the Deposit Guarantee Directive, Investors Compensation Directive and UCITS Directive. This sourcebook applies in the usual way to an incoming EEA firm which is exercising EEA rights under the Insurance Directives. Such a firm is not affected by the Deposit Guarantee Directive, the Investors Compensation Directive or the UCITS Directive.

14.1.4 G An incoming EEA firm, which is a credit institution, an IMD insurance

intermediary, an IMD reinsurance intermediary, an ISD investment firm or a UCITS management company is not a *participant firm* in relation to its *passport activities* unless it obtains the cover of, or ‘tops up’ into, the *compensation scheme*. This reflects section 213(10) of the Act (The *compensation scheme*) and regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons). If an *incoming EEA firm* also carries on *non-passported activities* (or, for a *UCITS management company*, certain *passport activities*) for which the *compensation scheme* provides cover, it will be a *participant firm* in relation to those activities and will be covered by the *compensation scheme* for those activities in the usual way.

...

14.2.3 G A notice under *COMP* 14.2.1R should include details confirming that the *incoming EEA firm* falls within a prescribed category. In summary:

- (1) the *firm* must be a *credit institution, an IMD insurance intermediary, an IMD reinsurance intermediary, an ISD investment firm or a UCITS management company*;

...

Annex B

Amendment to the Glossary of definitions

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

annual eligible income (in *COMP*) the annual income (as described in Part 2 of *SUP* 20 Ann 1R) for the *firm's* last financial year preceding the date for submission of the information under *COMP* ~~1316.6.11R~~ attributable to the relevant *contribution group*; or if the *firm* prefers, that amount of that annual income attributable to business conducted with or on behalf of *eligible claimants*, but only if the *firm* notifies *FSCS* of the amount in accordance with *FSCS* reporting requirements.