

**COMPENSATION SOURCEBOOK (DEPOSIT GUARANTEE SCHEMES
DIRECTIVE AMENDMENTS) (NO 2) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 213 (The compensation scheme); and
 - (e) section 214 (General); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- 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 31 December 2010.

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 (Deposit Guarantee Schemes Directive Amendments) (No 2) Instrument 2010.

By order of the Board
16 December 2010

Annex

Amendments to the Compensation sourcebook (COMP)

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

- 7.2.3C G (1) For example, if the claimant's overall *claim for protected deposits* against a *relevant person* was for ~~£100,000~~120,000, and the *FSCS* paid compensation of ~~£50,000~~85,000 and took assignment of all the claimant's rights in relation to that claim, and made recoveries through those rights in the sum of ~~£80,000~~96,000 (after the costs of recovery and of distribution), then:
- (a) the recovery ratio would be 80% (~~£80,000~~ 96,000 ÷ ~~£100,000~~ 120,000);
 - (b) the compensation shortfall would be ~~£50,000~~ 35,000 (~~£100,000~~ 120,000 - ~~£50,000~~ 85,000);
 - (c) the *FSCS* retention sum would be ~~£40,000~~ 68,000 (80% x ~~£50,000~~ 85,000);
 - (d) the top up payment would be ~~£40,000~~ 28,000 (80% of ~~£50,000~~ 35,000);
 - (e) the total payment to the claimant would be ~~£90,000~~ 113,000 (~~£50,000~~ 85,000 of compensation plus ~~£40,000~~ 28,000 of top up payment); and
 - (f) the total outlay by the *FSCS*, net of the *FSCS* retention sum, would be ~~£10,000~~ 17,000 (20% x ~~£50,000~~ 85,000).
- (2) In the example above, the amount recovered exceeds the amount of compensation. However, *COMP* 7.2.1R also applies where the amount recovered is less than the amount of compensation. Therefore, for example, if the claimant's overall *claim for protected deposits* against a *relevant person* was for ~~£100,000~~ 120,000, and the *FSCS* paid compensation of ~~£50,000~~ 85,000 and took assignment of all the claimant's rights in relation to that claim, and made recoveries through those rights in the sum of ~~£20,000~~ 24,000 (after the costs of recovery and of distribution), then:
- (a) the recovery ratio would be 20% (~~£20,000~~ 24,000 ÷ ~~£100,000~~ 120,000);
 - (b) the compensation shortfall would be ~~£50,000~~ 35,000 (~~£100,000~~ 120,000 - ~~£50,000~~ 85,000);
 - (c) the *FSCS* retention sum would be ~~£10,000~~ 17,000 (20% x

~~£50,000~~ 85,000);

- (d) the top up payment would be ~~£10,000~~ 7,000 (20% of ~~£50,000~~ 35,000);
- (e) the total payment to the claimant would be ~~£60,000~~ 92,000 (~~£50,000~~ 85,000 of compensation plus ~~£10,000~~ 7,000 of top up payment); and
- (f) the total outlay by the FSCS, net of the FSCS retention sum, would be ~~£40,000~~ 68,000 (80% x ~~£50,000~~ 85,000).

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10.2.3 R Table Limits

This table belongs to COMP 10.2.1R

Type of claim	Level of cover	Maximum payment
<i>Protected deposit or protected dormant account</i>	100% of claim	£50,000 or €50,000 whichever is the greater on the date the relevant person is determined to be in default or the date the protected deposit was due and payable, if later. <u>£85,000</u> [Note: article 7(1) articles 7(1a) and 7(1b) of the Deposit Guarantee Directive] ...
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Incoming EEA firms that accept deposits through UK branches ~~and have not obtained top-up cover~~

- 16.3.3 R An *incoming EEA firm* that *accepts deposits* through a *UK branch* ~~and has not obtained top-up cover~~ must disclose the following information to any *deposit holder* with that *branch* who is or is likely to be eligible to claim for compensation from the *firm's Home State* compensation scheme.

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~~Incoming EEA firms that accept deposits through UK branches and have obtained~~

top-up cover

- 16.3.4 R ~~An incoming EEA firm that accepts deposits through a UK branch and has obtained top-up cover must disclose the following information to any protected deposit holder with that firm who is or is likely to be an eligible claimant.~~

"Important information about compensation arrangements

We are part of [insert name of firm] which is based in [insert name of Home State]. Most depositors are covered by [insert name of Home State compensation scheme] compensation scheme which is also based in [insert name of Home State]. In addition, for depositors with our UK branch we have joined the UK compensation scheme, the Financial Services Compensation Scheme (FSCS).

This means that if our bank is unable to meet its financial obligations, eligible depositors with our UK branch could claim up to £ [insert Home State compensation scheme maximum payment for deposits] from the [insert name of Home State compensation scheme] and if they have more saved with us, they could also claim for the remainder up to [insert FSCS maximum payment for protected deposits] from the FSCS.

This is because the [insert name of Home State compensation scheme] is only responsible for paying the first part of the compensation up to £ [insert Home State compensation scheme maximum payment for deposits] and the FSCS is only responsible for paying the second part of compensation – being above £ [insert Home State compensation scheme maximum payment for deposits] and up to [insert FSCS maximum payment for protected deposits].

The FSCS will also try to help depositors with our UK branch, for example, to get in touch with the [insert name of Home State compensation scheme] compensation scheme and to understand the process involved.

For further information on how compensation would apply to you please contact:

- [insert name of firm] by dropping into one of our branches, at [insert website link] or by calling [insert phone number].

General information is also available from:

- the FSCS by calling [insert FSCS phone number] or at www.fscs.org.uk/.
- [insert name of Home State compensation scheme] compensation scheme by contacting [insert relevant phone number and website link]. [deleted]

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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>24</u>	<u>COMP 10.2.3R</u>	<u>R</u>	<u>The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) (No 2) Instrument 2010 does not apply in relation to a <i>claim against a relevant person that was in default</i> before 31 December 2010.</u>	<u>From 31 December 2010 indefinitely</u>	<u>31 December 2010</u>

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