

Chapter 14

Participation by EEA Firms

14.2 Obtaining top-up cover

- 14.2.1** **R** An *incoming EEA firm* may, by notice in writing to the FSCS, elect to receive *top-up cover* from the *compensation scheme* if it falls within one of the categories prescribed in regulation 3 of the *Electing Participants Regulations* (Persons who may elect to participate).
- 14.2.2** **R** An election under **COMP 14.2.1 R** takes effect on the date when the FSCS notifies the *incoming EEA firm* that its election has been accepted.
- 14.2.3** **G** A notice under **COMP 14.2.1 R** should include details confirming that the *incoming EEA firm* falls within a prescribed category. In summary:
- (1) the *firm* must be:
 - (a) [deleted]
 - (b) an *IDD insurance intermediary*; or
 - (c) a *MiFID investment firm*; or
 - (d) a *UCITS management company* that carries on the activities of *managing investments* (other than *collective portfolio management*), *advising on investments* or *safeguarding and administering investments*;
 - (e) an *AIFM* that carries on *AIFM management functions* for an *unauthorised AIF*; or
 - (f) an *AIFM* that provides the services in article 6(4) of *AIFMD*;
 - (g) an *MCD mortgage credit intermediary*
 - (2) the *firm* must have established a *branch* in the *United Kingdom* in the exercise of an *EEA right*; and
 - (3) the scope and/or level of cover provided by the *firm's Home State compensation scheme* must be less than that provided by the *compensation scheme*.
- 14.2.4** **R** When the FSCS accepts an application, it must allocate the *incoming EEA firm* to the *contribution group* (or groups) which seems to the FSCS to be most appropriate, taking into account the nature of the business for which the *incoming EEA firm* is seeking cover from the *compensation scheme*.

- 14.2.5 **R** The *FSCS* must put in place and publish procedures to enable an appeal by an *incoming EEA firm* against a rejection by the *FSCS* of an election to receive *top-up cover* or a decision to allocate an *incoming EEA firm*, once the *firm's* election has been accepted, to a particular *contribution group*. Such procedures must satisfy the minimum requirements of procedural fairness and comply with the European Convention on Human Rights.