

Chapter 3

The qualifying conditions for compensation



3.1 Application and Purpose

Application

3.1.1 **R** This chapter applies to the *FSCS*.

3.1.2 **G** It is also relevant to claimants.

Purpose

3.1.3 **G** The purpose of this chapter is to set out in general terms the conditions that must be satisfied before the *FSCS* can make an offer of compensation.

3.1.4 **G** The qualifying conditions for paying compensation are set out in greater detail in **COMP 4** - **COMP 7**.



3.2 The qualifying conditions for paying compensation

3.2.1 **R** The FSCS may pay compensation to an *eligible claimant*, subject to COMP 11 (Payment of compensation), if it is satisfied that:

- (1) an *eligible claimant* has made an application for compensation (or the FSCS is treating the *person* as having done so);
- (2) the claim is in respect of a *protected claim* against a *relevant person* (or, where applicable, a *successor*) who is *in default*; and
- (3) where the FSCS so requires, the claimant has assigned the whole or any part of his rights against any one or more of the *relevant person*, any third party or, where applicable, a *successor*, to the FSCS, on such terms as the FSCS thinks fit.
- (4) [deleted]

Treating a person as having claimed

3.2.1A **R** The FSCS may treat *persons* who are or may be entitled to claim compensation as if they had done so.

Claims on behalf of another person

3.2.2 **R** The FSCS may also pay compensation (and any recovery or other amount payable by the FSCS to the claimant) to a *person* who makes a *claim* on behalf of another *person* if the FSCS is satisfied that the *person* on whose behalf the *claim* is made:

- (1) is or would have been an *eligible claimant*; and
- (2) would have been paid compensation by the FSCS had he been able to make the *claim* himself, or to pursue his application for compensation further.

3.2.3 **G** Examples of the circumstances covered by **COMP 3.2.2 R** are:

- (1) when personal representatives make a *claim* on behalf of the deceased;
- (2) when trustees make a *claim* on behalf of beneficiaries (for further provisions relating to *claims* by trustees, see **COMP 12A.1.1R** to **12A.1.7R**);

- (3) when the donee of an enduring power of attorney or a lasting power of attorney makes a *claim* on behalf of the donor of the power;
- (4) when the Court of Protection makes a *claim* on behalf of a *person* incapable by reason of mental disorder of managing and administering his property and affairs;
- (5) when an *eligible claimant* makes a *claim* for compensation but dies before his *claim* is determined.

3.2.4

R

The *FSCS* may also pay compensation to a *firm*, who makes a claim in connection with *protected non-investment insurance distribution* on behalf of its customers, if the *FSCS* is satisfied that:

- (1) each *customer* has borne a *shortfall* in *client money* held by the *firm* caused by a *secondary pooling event* arising out of the *failure* of a broker or *settlement agent* which is a *relevant person* in default;
- (2) the *customers* in respect of which compensation is to be paid satisfy the conditions set out in ■ COMP 3.2.2 R (1);
- (3) the *customers* do not have a *claim* against the *relevant person* directly, nor a claim against the *firm*, in respect of the same loss;
- (4) the *customers* would have been paid compensation by *FSCS* if the *customers* had a *claim* for their share of the *shortfall*, and if the *firm* were the *relevant person*; and
- (5) the *firm* has agreed, on such terms as the *FSCS* thinks fit, to pay, or credit the accounts of, without deduction, each relevant *customer* in (1), that part of the compensation equal to the *customer's* financial loss, subject to the limits in ■ COMP 10.2.

Special cases

3.2.5

G

See ■ COMP 12A (Special cases) for how the *FSCS* may pay compensation in certain cases.