

FINANCIAL SERVICES AND MARKETS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part Xv: the Financial Services Compensation Scheme

Section 213: The compensation scheme

423. This section imposes certain requirements about the Authority's rules establishing the scheme. It also makes it clear that customers may be eligible to make a claim against an authorised person even if the claim arises in relation to an activity for which that authorised person did not have permission. A claim relating to an appointed representative who is an exempt person by virtue of section 39 may also qualify under the scheme. Claims would not, however, be eligible if they related to regulated activities carried on by a person who should be authorised but is not.
424. *Subsection (3)(b)* provides for the scheme manager to levy authorised persons to cover both the costs of compensation and its administrative costs.
425. *Subsection (5)* requires the scheme manager when setting the levy to seek, so far as is practicable, to avoid cross-subsidy between sectors.
426. *Subsection (10)* allows the Treasury to prescribe categories of persons authorised to carry on regulated activities in the United Kingdom under passporting arrangements that will only participate in the scheme if they elect to do so. This allows the Treasury to ensure that, while membership of the scheme is generally compulsory for authorised persons carrying on relevant activities, it remains compatible with UK obligations under EC directives which make rules about the extent to which EEA firms can be required to join compensation schemes other than their home State scheme.