



Financial Services Act 2010

2010 CHAPTER 28

Financial Services Compensation Scheme

17 Power to require FSCS manager to act in relation to other schemes

In the Financial Services and Markets Act 2000, after Part 15 insert—

“PART 15A

POWER TO REQUIRE FSCS MANAGER TO ACT IN RELATION TO OTHER SCHEMES

Introduction

224B Meaning of “relevant scheme” etc

- (1) The following provisions apply for the purposes of this Part.
- (2) “Relevant scheme” means a scheme or arrangement (other than the FSCS) for the payment of compensation (in certain cases) to customers of persons who provide financial services or carry on a business connected with the provision of such services.
- (3) References to the manager of a relevant scheme are to the person who administers it or (if there is no such person) the person responsible for making payments under it.
- (4) “The FSCS” means the Financial Services Compensation Scheme (see section 213(2)).
- (5) “The FSCS manager” means the scheme manager as defined by section 212(1).
- (6) “Expense” includes anything that, if incurred in relation to the FSCS, would amount to an expense for the purposes of the FSCS.
- (7) “Notice” means a notice in writing.

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- (8) In subsection (2)—
- (a) “customers” includes customers outside the United Kingdom;
 - (b) “persons” includes persons outside the United Kingdom;
 - (c) references to the provision of financial services include the provision outside the United Kingdom of such services.
- (9) This Part applies to cases where the manager of the relevant scheme is the Treasury or any other Minister of the Crown as it applies to cases where that manager is any other person.

Power to require FSCS manager to act

224C Power to require FSCS manager to act on behalf of manager of relevant scheme

- (1) This section applies if compensation is payable under a relevant scheme.
- (2) The Treasury may by notice require the FSCS manager to exercise (on behalf of the manager of the relevant scheme) specified functions in respect of specified claims for compensation under the relevant scheme.
- (3) A notice may be given only with the consent of the manager of the relevant scheme.
- (4) In subsection (2) “specified” means specified, or of a description specified, in the notice.
- (5) Claims or descriptions of claims may be specified by reference to the persons or description of persons whose claims they are.

224D Cases where FSCS manager may decline to act

- (1) This section applies where a notice under section 224C(2) (a “section 224C notice”) has been given in respect of a relevant scheme.
- (2) The FSCS manager is not under a duty to comply with the section 224C notice if, as soon as reasonably practicable after receiving it, the FSCS manager gives a notice to the Treasury stating that a ground set out in section 224E applies.
- (3) Where a notice under subsection (2) is given, the FSCS manager may recover from the manager of the relevant scheme an amount equal to the total expenses incurred by the FSCS manager in connection with the relevant scheme in the period—
 - (a) beginning with the giving of the section 224C notice; and
 - (b) ending with the giving of the notice under subsection (2).
- (4) The duty to comply with the section 224C notice ceases if, after starting to comply with it, the FSCS manager gives a notice to the Treasury and the manager of the relevant scheme stating that a ground set out in section 224E applies.
- (5) Where a notice under subsection (4) is given, the FSCS manager must give the Treasury such information connected with the FSCS manager's exercise of

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functions in relation to the relevant scheme as the Treasury may reasonably require.

- (6) Any notice under this section—
- (a) may be given only if, before giving it, the FSCS manager has taken reasonable steps to deal with anything that is causing the ground or grounds in question to apply; and
 - (b) must contain details of those steps.

224E Grounds for declining to act

- (1) This section sets out the grounds referred to in section 224D(2) and (4).
- (2) The first ground is that the FSCS manager is not satisfied that it will be able to obtain any information required in order to comply with the section 224C notice.
- (3) The second ground is that the FSCS manager is not satisfied that it will be able to obtain any advice or other assistance from the manager of the relevant scheme that is required in order to comply with the section 224C notice.
- (4) The third ground is—
 - (a) that the FSCS manager has not received an amount at least equal to the total expenses it expects to incur in connection with its relevant scheme functions; and
 - (b) either—
 - (i) that there are no arrangements for the provision of funds to the FSCS manager to enable it to exercise those functions and meet those expenses; or
 - (ii) that the FSCS manager considers that any such arrangements are unsatisfactory.
- (5) The fourth ground is that the FSCS manager considers that complying with the section 224C notice would detrimentally affect the exercise of its functions under the FSCS.
- (6) The fifth ground is—
 - (a) that there is no undertaking from the manager of the relevant scheme not to bring proceedings against the FSCS manager; or
 - (b) that the FSCS manager considers that the terms of any such undertaking are unsatisfactory.
- (7) The sixth ground is—
 - (a) that there are no arrangements for the reimbursement of any expenses incurred by the FSCS manager in connection with any proceedings brought against it in respect of its relevant scheme functions (including expenses incurred in meeting any award of damages made against it); or
 - (b) that the FSCS manager considers that any such arrangements are unsatisfactory.
- (8) In subsection (6) references to an undertaking of the kind mentioned there are to an undertaking not to bring proceedings in respect of the FSCS manager's

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relevant scheme functions except proceedings in respect of an act or omission of the FSCS manager that is alleged to have been in bad faith.

- (9) In this section “proceedings” includes proceedings outside the United Kingdom.

Rules

224F Rules about relevant schemes

- (1) The Authority may by rules make provision in connection with the exercise by the FSCS manager of functions in respect of relevant schemes.
- (2) The provision that may be made by the rules includes any provision corresponding to provision that could be contained in the FSCS; but this is subject to subsections (3) and (4).
- (3) The rules may confer on the FSCS manager a power to impose levies on authorised persons (or any class of authorised persons) for the purpose of meeting its management expenses incurred in connection with its functions in respect of relevant schemes.
- (4) But if the rules confer such a power they must provide that the power may be exercised in relation to expenses incurred in connection with a relevant scheme only if the FSCS manager has tried its best to obtain reimbursement of the expenses from the manager of the relevant scheme.
- (5) The rules may apply any provision of the FSCS, with or without modifications.
- (6) An amount payable to the FSCS manager as a result of any provision of the rules made by virtue of subsection (3) may be recovered as a debt due to the FSCS manager.
- (7) References to the FSCS manager's “management expenses” are to its expenses incurred otherwise than in paying compensation.”

Commencement Information

II S. 17 in force at 12.10.2010 by S.I. 2010/2480, art. 2(d)

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