
STATUTORY INSTRUMENTS

2001 No. 2967

**The Financial Services and Markets Act 2000
(Transitional Provisions, Repeals and Savings)
(Financial Services Compensation Scheme) Order 2001**

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Interpretation

2.—(1) In this Order, “former scheme” means —

- (a) the Policyholders Protection Scheme established by the Policyholders Protection Act (“the PPS”);
- (b) the Deposit Protection Scheme established by Part II of the Banking Act (“the DPS”);
- (c) the Building Societies Investor Protection Scheme established by Part IV of the Building Societies Act (“the BSIPS”);
- (d) the scheme established under section 54 of the Financial Services Act⁽¹⁾ and known as the Investor Compensation Scheme (“the ICS”);
- (e) the scheme known as the section 43 Compensation Scheme established under section 22j of the Grey Paper ⁽²⁾(“the Section 43 scheme”);
- (f) the scheme known as the Friendly Societies Protection Scheme established in accordance with section 141 of the Financial Services Act⁽³⁾ (“the FSPS”);
- (g) the scheme known as the Personal Investment Authority indemnity scheme established by Chapter II of Part L:VIII of the PIA Rule Book (“the PIA indemnity scheme”); or
- (h) the arrangements described in the ABI/ICS agreement (“the ABI scheme”).

(2) In this Order—

“ABI/ICS agreement” means the agreement dated 1st February 1999 between the Association of British Insurers and the Investor Compensation Scheme Ltd for the making of payments by way of compensation to widows, widowers and dependants of persons (since deceased), in connection with advice given to such persons in relation to pensions, or the arranging of pensions for such persons;

“the Act” means the Financial Services and Markets Act 2000;

“article 9 default” means a default referred to in (a), (b), (c), (d), (e), (h) or (i) of the definition of “default”;

⁽¹⁾ Amended by [S.I. 1989/2405](#).

⁽²⁾ The Grey Paper sets out the conditions for listing and on-going supervision of institutions listed under section 43 of the Financial Services Act. It was published by the Authority on 26th September 1998.

⁽³⁾ Amended by the Friendly Societies Act 1992, Schedule 18 paragraph 3.

“authorised insurance company” means a person who was, at any time before commencement, authorised under section 3 or 4 of the Insurance Companies Act to carry on insurance business of any class in the United Kingdom;

“the Banking Act” means the Banking Act 1987(4);

“the Building Societies Act” means the Building Societies Act 1986(5);

“commencement” means the beginning of the day on which section 19 of the Act comes into force;

“default” means—

- (a) the passing of a resolution for the voluntary winding up of an authorised insurance company within the meaning of section 3 of the Policyholders Protection Act in circumstances falling within section 5(1)(a) of that Act(6);
- (b) the making by the court of an order for the winding up of such a company in circumstances falling within section 5(1)(b) of that Act;
- (c) the appointment of a provisional liquidator in circumstances falling within section 15 of that Act in respect of such a company;
- (d) such a company becoming a company in financial difficulties within the meaning of section 16 of that Act;
- (e) a participating deposit-taker becoming insolvent for the purposes of Part II of the Banking Act;
- (f) the making of a determination that a participant firm is in default in accordance with rule 3.02 of the Financial Services (Compensation of Investors) Rules 1988(7), rule 2.01 of the Financial Services (Compensation of Investors) Rules 1990(8), or rule 2.01 or 2.01A of the Financial Services (Compensation of Investors) Rules 1994(9);
- (g) the making of a determination that a participant firm is in default in accordance with rule 2.01 of the Section 43 Compensation Scheme Rules(10);
- (h) a participating institution becoming insolvent for the purposes of section 25A of the Building Societies Act(11);
- (i) the beginning of a dissolution or transfer of engagements of a member society in accordance with rule 9(2) of the Rules of the Friendly Societies Protection Scheme(12);
- (j) a member becoming unable to meet its liabilities in the circumstances referred to in rule L8.3 of the PIA Rule Book(13); or
- (k) the making of a determination pursuant to the ABI/ICS agreement that a firm is in default (or would have been so had the investor not died) for the purposes of the ABI scheme;

“the Financial Services Act” means the Financial Services Act 1986(14);

(4) 1987 c. 22.

(5) 1986 c. 53.

(6) Amended by the Insolvency Act 1986 (c. 45) Schedule 14 and by S.I. 1989/2405 (N.I.19).

(7) The Financial Services (Compensation of Investors) Rules 1988 were made on 21st July 1988 and came into force on 28th August 1988.

(8) The Financial Services (Compensation of Investors) Rules 1990 were made on 21st June 1990 and came into force on 15th July 1990.

(9) The Financial Services (Compensation of Investors) Rules 1994 were made by the Authority on 15th September 1994 and came into force on that day.

(10) The Section 43 Compensation Scheme Rules were made by the Authority as part of the Grey Paper (see paragraph (e) of the definition of “former scheme”) on 26th September 1998.

(11) Inserted by S.I. 1995/1442 and amended by the Building Societies Act 1997 (c. 32) Schedule 7, paragraph 6.

(12) The Rules of the Friendly Societies Protection Scheme are the rules referred to in the Memorandum and Articles of Association of the Association of Registered Friendly Societies Limited, which was incorporated on 14th September 1987.

(13) The PIA Rule Book was published by the Personal Investment Authority in June 1998.

(14) 1986 c. 60.

“former manager” means, in relation to—

- (a) the PPS, the Policyholders Protection Board;
- (b) the DPS, the Deposit Protection Board;
- (c) the BSIPS, the Building Societies Investor Protection Board;
- (d) the ICS, the Investors Compensation Scheme Limited;
- (e) the Section 43 scheme, the Authority;
- (f) the FSPS, the Friendly Societies Protection Scheme Board;
- (g) the PIA indemnity scheme, the Board of the Personal Investment Authority;
- (h) the ABI scheme, the Investor Compensation Scheme Ltd;

“the Insurance Companies Act” means the Insurance Companies Act 1982⁽¹⁵⁾;

“investment business compensation scheme” means the ICS, the Section 43 scheme, the PIA indemnity scheme or the ABI scheme;

“member society” means a person who, at any time before commencement, was a member society within the meaning of the Rules of the FSPS;

“new scheme” means the Financial Services Compensation Scheme established under Part XV of the Act;

“participating deposit-taker” means a person who was at any time before commencement—

- (a) a UK institution, participating institution, former UK institution or former participating institution as defined in section 52(6) of the Banking Act; or
- (b) a former authorised institution as defined in section 106(1) of the Banking Act (other than a former UK institution or former participating institution as defined in section 52(6) of that Act), which was not a recognised bank or licensed institution excluded by an order under section 23(2) of the Banking Act 1979⁽¹⁶⁾;

“participating institution” means a person who was at any time before commencement a participating institution within the meaning of section 24(4) of the Building Societies Act;

“pending application” has the meaning given by article 3(1);

“Policyholders Protection Act” means the Policyholders Protection Act 1975⁽¹⁷⁾;

“post-commencement application” has the meaning given by article 3(5);

“the Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001⁽¹⁸⁾;

“relevant default” means a default giving rise to a transitional application;

“relevant defaulter” means the insurance company, institution, firm, society or other person with respect to whom a relevant default or article 9 default occurred;

“relevant former scheme”—

- (a) in relation to a pending application, means the investment business compensation scheme under which the application was made;
- (b) in relation to an article 9 default, means the former scheme which applied in relation to the default before commencement;

“terminating event”—

⁽¹⁵⁾ 1982 c. 50.

⁽¹⁶⁾ 1979 c. 37. Section 23 was repealed by the Banking Act 1987 (c. 22) Schedule 7.

⁽¹⁷⁾ 1975 c. 75.

⁽¹⁸⁾ S.I. 2001/544.

- (a) in relation to an application for compensation made under an investment business compensation scheme, means—
 - (i) the withdrawal, discontinuance or rejection of the application (other than in circumstances where it could be renewed or made again at a later date in accordance with that scheme, by reason of a change in circumstances), or
 - (ii) the making of a final payment of compensation to the applicant;
- (b) in relation to an article 9 default for which the DPS or the BSIPS is the relevant former scheme, means the relevant defaulter ceasing to be insolvent in the circumstances referred to in section 59(3) of the Banking Act(19) or section 25A(3) of the Building Societies Act;

“transitional application” means a pending application or a post-commencement application.

- (2) A reference in this Order to a former scheme, or to a provision in a former scheme—
 - (a) in the context of an event or circumstances occurring by virtue of, or in accordance with, that scheme or that provision, is a reference to that scheme or that provision as it had effect at the time the event or the circumstances in question occurred; and
 - (b) in any other context, is a reference to the former scheme or provision as it had effect immediately before commencement.