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FSCS petitions House of Lords for leave to appeal Geologistics judgement

The Financial Services Compensation Scheme (FSCS) is petitioning the House of Lords for leave to appeal the recent judgement by the Court of Appeal in the case of Geologistics Ltd.

“FSCS believes this case raises important issues and merits consideration by the House of Lords,” says FSCS’ Chief Executive, Suzanne McCarthy. “The consequences of this judgement are potentially very costly for the insurance sector. Those costs, in turn, may be passed on to policyholders.”

FSCS rejected an application for compensation from Geologistics Limited, a policyholder of Independent Insurance Company Limited (in provisional liquidation), for the costs incurred in the defence of an employer’s liability claim. The Scheme did not consider that these costs could be included as a protected claim under the Policyholders Protection Act 1975 (*see notes for Editors*). The trial of Geologistics’ challenge to this decision, by judicial review, was heard on 3 March 2003 and judgement delivered in Geologistics’ favour on 4 March. FSCS was granted leave to appeal and the appeal was heard on 27 November. The judgement was delivered in Geologistics’ favour on 18 December.

FSCS does not currently have an indication of when this case may be heard by the House of Lords.

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Notes to Editors

FSCS is the single compensation scheme for the financial services industry, covering deposits, insurance and investments. The industry-funded Scheme acts as a fund of last resort for customers of financial services firms who are unable, or likely to be unable, to pay claims against them. This is generally because they have ceased trading or are insolvent.

FSCS was set up under the terms of the Financial Services and Markets Act 2000 and became the UK's single financial services compensation scheme from 1 December 2001, when it replaced existing compensation schemes including the Deposit Protection Scheme, the Policyholders Protection Scheme, and the Investors Compensation Scheme.

Claims against firms that were insolvent or declared in default before FSCS became operational are handled by the Scheme, although these are covered by the rules governing the separate compensation schemes that existed before that date. For claims against insurance firms that became insolvent before 1 December 2001, such as Independent Insurance Company Ltd, the Policyholders Protection Act (1975) would apply.

For further information about FSCS visit our website: www.fscs.org.uk