

Frequently Asked Questions

'Category Two' Investment Tax Claims

1. What is the FSCS's involvement in Keydata?

Keydata was placed into administration on 8 June 2009. Dan Schwarzmann and Mark Batten of PricewaterhouseCoopers LLP were appointed joint administrators. On 13 November 2009 the FSCS confirmed that Keydata was 'in default', meaning that investors with eligible claims against the firm are able to claim compensation from the FSCS.

2. What are the 'Category Two' investments?

The products marketed as ISAs which do not meet the requirements for qualifying ISA investments include five year versions of the following funds:

- Secure Income Bond, issue 4
- Secure Income Plan, issues 1 to 12 and 14
- Defined Income Plan, issues 1 to 8
- Income Plan, issues 1 to 12 and 14

Both 'income' and 'growth' versions of these funds are affected.

A full list of affected products is available on the Administrators' website: www.pwc.co.uk/KIS.

3. Why do the Category Two investments not qualify for ISA purposes?

The ISA regulations require that securities held in stocks and shares ISAs must be listed on a Recognised Stock Exchange and have a maturity date more than five years after they were first held in the ISA wrapper. Some of the investments sold as ISA investments by Keydata fail one or both of these rules. Therefore the investments do not qualify for ISA tax exemptions.

4. What is the tax position for the products that Keydata incorrectly sold me as an ISA qualifying investment?

For the period up to the date of Administration (8 June 2009), HMRC will be seeking to recover the tax from Keydata (via the Administrators) rather than from individual investors.

For the period after 8 June 2009, interest generated from the investment up until the maturity date of the investment, or until the investor otherwise disposes of it, is taxable on the individual investors. 'Interest' may include regular interest payments, maturity payments and early disposal payments. Accordingly both 'income' and 'growth' investors are liable to income tax in respect of their Category Two investment(s).

However, if you are eligible for compensation from the FSCS in respect of any tax liabilities after 8 June 2009, you can arrange for the FSCS to pay your compensation direct to HMRC in settlement of your tax liabilities in respect of your Category Two investment(s).

5. How do I claim compensation from the FSCS?

To enable the FSCS to consider your claim, you need to complete the application form sent to all Category Two investors by the FSCS. Please return the application form by **31 March 2010**.

It is important that you return your form to us by this date. If you do not, we may not be able to pay any compensation owed to you direct to HMRC. If you miss the deadline you will then need to ensure that you report any interest you receive from your investment to HMRC in the usual way (e.g. by completing a tax return) and that you settle any tax due direct with HMRC (although you could still make a claim to the FSCS once you have settled your tax liability with HMRC by providing evidence of the tax paid).

6. What will happen once I have returned my application form?

Once you have returned your completed application form, the FSCS will investigate your claim to assess whether it is eligible for compensation under its rules.

If your claim is eligible, we will send you an Offer of Compensation for you to complete and return. This document will set out the terms of our offer, and ask you to confirm the highest rate you expect to pay income tax for the 2009/10 tax year. This information will allow us to calculate the compensation you are entitled to in respect of your tax liability. If you agree to the terms of our Offer of Compensation, once HMRC and the FSCS have agreed the amount of compensation required to settle your tax liability, we will be able to pay your compensation directly to HMRC. This will avoid the need for you to pay this tax yourself. In the unlikely event that the FSCS and HMRC are unable to agree your compensation amount, the FSCS or HMRC may need to obtain further information from you or ask you to take further action.

If we are not able to compensate you for your tax liabilities, we will write to you to explain why. Please be aware that, if this is the case, you will need to report the interest you receive to HMRC in the usual way (e.g. by completing a tax return) and pay any tax due.

7. Are there any limits to the compensation that the FSCS can pay?

Yes. For claims against Keydata relating to investment business, the limit is a maximum of £48,000 (100% of the first £30,000 and 90% of the next £20,000) per person.

8. Who is eligible for protection under the FSCS?

The scope of the FSCS's protection is set out in the Compensation Sourcebook of the FSA's Handbook (the "COMP Rules") available from the FSA's website: www.fsa.gov.uk.

The COMP Rules explain who is eligible to benefit from the protection provided by the FSCS, the types of claim that are protected and the limits of any compensation payable. For example, generally speaking, we can only accept claims from individuals and small businesses. Overseas financial services institutions and large businesses are excluded.

Full details of who is eligible to benefit from the protection provided by the FSCS can be found at COMP 4.2R.

9. If my claim is eligible, how will compensation be paid?

The FSCS has agreed an arrangement with HMRC and Keydata's Administrators under which (subject to your agreement to our Offer of Compensation):

- Once the FSCS and HMRC have agreed the amount required to settle your tax liability, the FSCS will pay your compensation in respect of the tax due direct to HMRC on an annual basis, as the liability arises (including liabilities in respect of regular interest payments and any interest payments upon the investment's maturity or early disposal);
- The payment by the FSCS will be accepted by HMRC in full settlement of your tax liabilities in respect of that interest (subject to the compensation limit);
- You will not be required to report that interest to HMRC for tax purposes;
- If your compensation limit is reached you will need to pay, direct to HMRC, any tax that the FSCS cannot compensate you for. If this is the case the FSCS will notify you.

10. How will the FSCS calculate the compensation to be paid to HMRC in respect of my claim?

On an annual basis, Keydata's Administrators will provide the FSCS with details of interest payments made to those Category Two investors who are eligible for compensation from the FSCS. For eligible claimants, the FSCS will calculate the compensation due for a given tax year, taking into account the investor's tax rate and the interest that they have received (eligible claimants will be asked to confirm the highest rate they expect to pay income tax for the 2009/10 tax year when they are sent an Offer of Compensation). HMRC will approve the amount required to cover an investor's income tax liability for a given tax year before payment is made by the FSCS.

If there is a material change to your personal or financial circumstances affecting your top rate of tax for future years (2010/11 onwards), while you continue to hold your Category Two investment(s), you must notify the FSCS immediately in writing.

11. What will happen if the FSCS cannot compensate me in full for my tax losses?

If the FSCS is unable to pay compensation in respect of your tax liability for whatever reason, including if it cannot compensate you in full because of the compensation limit (i.e. a maximum of £48,000, based on 100% of the first £30,000 of losses and 90% of the next £20,000, per person, per firm), we will write to you to explain the reason(s).

Please be aware that, if the FSCS is not able to compensate you for your tax liability, you will need to report the interest received to HMRC in the usual way (e.g. by completing a tax return) and pay any tax due.

12. What are the timescales for claiming compensation?

We have asked you to return the FSCS application form by 31 March 2010.

It is important that you return your form to us by this date. If you do not, we may not be able to pay any compensation owed to you direct to HMRC. If you miss the deadline you will then need to ensure that you report any interest you receive from your investment to HMRC in the usual way (e.g. by completing a tax return) and that you settle any tax due direct with HMRC (although you could still make a claim to the FSCS once you have settled your tax liability with HMRC by providing evidence of the tax paid).

If your claim is eligible for compensation, we will send you an Offer of Compensation. If you agree to the terms of our offer, once HMRC and the FSCS have agreed the amount of compensation required to settle your tax liability the FSCS will then arrange the payment of compensation to HMRC on your behalf. The payment will be made in the tax year during which you would have otherwise been required to pay the tax.

However, if your claim is not eligible for compensation, we will write to you to explain the reason for this. You will then need to report the interest received to HMRC in the usual way (e.g. by completing a tax return) and pay any tax due.

We will contact you about your claim as soon as we can, but please be patient. You can help us deal with your claim efficiently by making sure you answer all the questions on the form, and by providing as much information as you can. We may need to contact you to clarify the information you provide or to ask further questions.

13. I have a separate claim against Keydata. How do I make my additional claim?

This application form only relates to future tax losses in relation to Category Two investments. If you have any other type of claim, please contact us to request a separate application form.

14. Where can I obtain further information?

If you have any further questions or would like help completing the enclosed application form, please telephone the FSCS's Customer Services Team on 020 7892 7300 or freephone on 0800 678 1100. You can also email the FSCS at: enquiries@fscs.org.uk. Further information is available on our website at www.fscs.org.uk.

If you wish to discuss tax issues with HMRC, you must contact your own tax office. For any queries about ISA-specific issues, you can telephone the ISA helpline on 0845 604 1701. HMRC has also published guidance for Keydata investors on its website: www.hmrc.gov.uk/isa.

The Administrators have a dedicated website relating to Keydata: www.pwc.co.uk/KIS.