

FSCS DECISION ON COMP POWERS IN RELATION TO (Fyshe Horton Finney Limited)

1. Using its powers in the Financial Services and Markets Act 2000 ("FSMA"), the Financial Services Authority ("FSA") made compensation rules in Chapter 7 of the Compensation Sourcebook of the FSA Handbook ("COMP") providing the Financial Services Compensation Scheme Limited ("FSCS") with specific rights and obligations against firms in default and third parties. On 1 April 2013, the Financial Conduct Authority ("FCA") became responsible for the conduct of business regulation for all authorised firms and prudential regulation for firms other than banks, building societies, credit unions, insurers and major investment firms. From that date, the compensation rules relevant to investment firms (other than major investment firms) can be found in the Compensation Sourcebook of the FCA Handbook.
2. On 20 March 2013, the Court made a special administration order against Fyshe Horton Finney Limited (the "Firm") and, as a result, the Firm is in default (the "FSCS Default") for the purposes of COMP 6.3.1(2)(b)R.
3. FSCS expects shortly to obtain from the Firm, acting through its insolvency practitioners (representatives of the accountancy firm, Harrisons), details (including account balances) of all eligible claimants who are natural persons and who have protected investment claims below the FSCS compensation limit of £50,000 (in accordance with COMP 10.2.3R) arising from client monies held with the Firm as at the date of the FSCS default ("claimants").
4. FSCS is satisfied that its usual methods of compensation payment (including, without limitation, by cheque) are suitable for the default of the Firm.
5. In addition to the powers available under COMP 7.3R (which FSCS has used to make the determinations set out in FSCS Determination 2013/No8), as at the date of this decision, FSCS has also decided to use the following powers in COMP in respect of the Firm and claimants:
 - A. to treat eligible claimants as having made claims for compensation (COMP 3.2.1AR); and
 - B. to pay compensation in any form and by any method (or any combination of them) that it determines is appropriate (COMP 11.2.3AR).
6. Unless defined in this decision, all expressions used which are also defined terms in the FCA Handbook Glossary shall have the same meaning as given to them in that glossary.

This decision to use COMP 3.2.1AR and 11.2.3AR is agreed on behalf of the Executive by:

K H B H H

 11/7/13. 16.19.

FSCS DETERMINATION INSTRUMENT 2013 (Fyshe Horton Finney Limited)

1. Using its powers in the Financial Services and Markets Act 2000 ("FSMA"), the Financial Services Authority ("FSA") made compensation rules in Chapter 7 of the Compensation Sourcebook of the FSA Handbook ("COMP") providing the Financial Services Compensation Scheme Limited ("FSCS") with specific rights and obligations against firms in default and third parties. On 1 April 2013, the Financial Conduct Authority ("FCA") became responsible for the conduct of business regulation for all authorised firms and prudential regulation for firms other than banks, building societies, credit unions, insurers and major investment firms. From that date, the compensation rules relevant to investment firms (other than major investment firms) can be found in the Compensation Sourcebook of the FCA Handbook.
2. On 20 March 2013, the Court made a special administration order against Fyshe Horton Finney Limited (the "Firm") and, as a result, the Firm is in default (the "FSCS Default") for the purposes of COMP 6.3.1(2)(b)R of the COMP Sourcebook.
3. FSCS has determined to use the powers in COMP Chapter 7.3R set out below in respect of the Firm and all eligible claimants who are natural persons and who have protected investment claims below the FSCS compensation limit of £50,000 (in accordance with COMP 10.2.3R) arising from client monies held with the Firm as at the date of the FSCS Default ("claimants"). For the avoidance of doubt, claimants will not include those investors who have assigned their claim against the Firm to a third party, nor will it include the third party to whom the claim against the Firm has been assigned.
4. Using the powers specified below, FSCS has determined that:
 - i. The payment of compensation by it shall have the effects specified in COMP 7.3.8R(3), (4) and (5);
 - ii. In accordance with COMP 7.3.9R, it will make the payment of compensation by it conditional upon claimants assigning or transferring the whole or any part of all the rights they may have against the Firm and/or any third party on such terms as FSCS determines are appropriate; and
 - iii. In accordance with COMP 7.3.10R, in the event that any of the scenarios listed in COMP 7.3.10R(1)(a)-(c) arise, claimants shall be treated as having irrevocably and unconditionally appointed the chairman of the FSCS for the time being to be their attorney and agent and on their behalf and in their name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the United Kingdom, another EEA State or other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect of those powers.
5. The payment of compensation by FSCS is in full and final discharge and settlement of the obligations of FSCS.

6. FSCS reserves the right to amend, remake, or revoke these determinations at any time as permitted by COMP 7.3.4R(5).
7. This instrument is made under COMP 7.3R and takes effect immediately on the date and at the time on which it is made.
8. Unless defined in this determination, all expressions used which are also defined terms in the FCA Handbook Glossary shall have the same meaning as given to them in that glossary.

This Determination under COMP 7.3R is agreed on behalf of the Executive by:

K. H. B. H. H.
11/7/13 16.19.