

FSCS Podcast #40 Can I claim compensation for my small business, limited company or charity?

Martyn Beauchamp 00:01

Welcome to Protect your money with FSCS, the podcast from the Financial Services Compensation Scheme. I'm Martyn Beauchamp, interim CEO at FSCS, and in this series, the fantastic FSCS team will help you understand how we can help protect your money, so you can feel confident that your money is safe. I hope you enjoy the podcast.

Jess Spiers 00:25

Welcome everybody. I'm your host, Jess Spiers, and I am Senior Content Manager at FSCS. So, in case anyone listening is new to the podcast, a very quick introduction to FSCS - We are the Financial Services Compensation Scheme, and we exist to protect customers of authorised financial services firms that have gone bust by paying eligible people compensation. So, this podcast always aims to explain our protection simply and clearly. As we know, sometimes it can seem a bit complex.

So today I'm joined by my colleague, Amy Alford, who you might remember from a couple of other episodes she's appeared on. Welcome back, Amy!

Amy Alford 01:03

Hello, thanks very much for having me.

Jess Spiers 01:05

Lovely to have you here. So, as this is Amy's first time as a guest on the podcast, I'm going to be asking her the question we usually ask our guests at the end of every episode. So, we are all about keeping your money safe at FSCS, but which toy got you breaking open your piggy bank as a child?

Let's get into our topic for today. Now, we usually talk about individuals claiming compensation, but today we're talking about whether you can claim compensation for your small business, your limited company or your charity.

Amy Alford 01:36

That's right. And the short answer is yes, potentially, you can claim compensation for your small business, limited company or charity. But like all our claims, we can't apply a blanket rule and say we'd definitely be able to pay compensation. We have to treat each claim individually and assess each one against our eligibility criteria.

Jess Spiers 01:54

Yeah, absolutely. And today, we'll be explaining our protection for different financial products and services and when we may or may not be able to pay compensation.

So, a few important things to mention up front - it's completely free to claim compensation with FSCS and we always want to make sure people know that, sometimes we can automatically pay compensation but if you do need to actively make a claim with us, you can do that directly with us for

free. If you'd rather not make the claim yourself for any reason, you can use a representative like a solicitor or a claims management company to handle your claim for you, but they follow exactly the same process as when you claim direct, and they will charge you a fee. Another option is to nominate a friend or relative to claim on your behalf, and that way you wouldn't have to pay anything. Amy, what else would you mention here?

Amy Alford 02:42

I think it's worth saying that we can only consider a claim if the financial firm you've done business with has gone bust. If there's a problem and the firm is still trading, try speaking to the firm first, or if that doesn't work, the Financial Ombudsman Service deals with complaints against companies that are still in business.

It's also worth mentioning that the financial firm you dealt with must have been authorised by the Financial Conduct Authority or the FCA, or the Prudential Regulation Authority or PRA, while it was trading for us to be able to help. Search for the company on the FCA's financial services register to check this.

Jess Spiers 03:17

Yeah, that's right. Okay, so let's start by looking at how we can protect small businesses and limited companies. The rules are a little bit different to those for charities, so we'll come on to those a little bit later. Amy, do you want to explain how we can protect small businesses and limited companies' deposits?

Amy Alford 03:36

I can, and to be completely clear, by deposits we mean the money in your bank, building society or credit union. If your small business or limited company holds money with a UK authorised bank building society or credit union and it fails, we'll automatically compensate each eligible company depositor up to the compensation limit set by the PRA, which is currently £85,000.

We can generally protect companies' deposits, regardless of the size of company. Most types of regulated financial services company aren't eligible though.

Jess Spiers 04:09

Okay, and what about if someone has a small business account and a personal account with the same bank? Are both their accounts covered up to £85,000?

Amy Alford 04:17

It depends, Jess. If your business is a separate legal entity, for example, a limited company or a limited liability partnership, an LLP, you could claim up to £85,000 of your personal account and your company account separately. If you're a sole trader (for example, Sarah Jones trading as Jones Accountants), you wouldn't be entitled to two separate claims, you could claim up to £85,000 in total.

Joint account holders are usually entitled to make separate deposit claims for £85,000 each. But if the joint account holders hold the account as partners in a business, then the business partnership is only entitled to a single claim of £85,00, not one claim per business partner.

Jess Spiers 05:02

Thanks, Amy. It's quite a lot to get your head round. So, I think it's worth saying that all this information is also on our website, and that's www.fscs.org.uk. So, if that was deposits, let's move on to insurance claims now. So, what if a small business or limited companies' insurer goes out of business?

Amy Alford 05:23

Let's start with general insurance. Some examples of general insurance claims are damage to property, goods in transit and fire damage. Generally, firms with an annual turnover of more than £1 million currently aren't eligible to claim with FSCS for General Insurance claims. The same goes for most types of authorised financial services firms. For general contracts of insurance that are compulsory, though, for example, third party motor insurance or employers' liability insurance, usually all firms are eligible regardless of their size.

Jess Spiers 05:54

Okay, what about long term insurance, am I right in thinking that this isn't often relevant to companies?

Amy Alford 06:01

That's right, with long term insurance, all firms are generally eligible for long term insurance contract claims, again, regardless of their size. But realistically, this won't occur very often as common types of long-term insurance are pensions or annuities and companies don't have pensions or annuities for themselves, only for their employees.

Jess Spiers 06:20

Yeah, that's right. So, I think that covers insurance. We'll go on to investment claims now. So, if you have an investment and the provider or advisor you used has gone out of business, you may be able to claim compensation with FSCS.

Amy Alford 06:34

Yes, that's right. For an investment claim to be eligible, your small business or limited company must qualify as a small company under Section 382 of the 2006 Companies Act. There are three criteria your company will be assessed by: annual turnover, balance sheets and total number of employees. Your company must meet two of the three criteria to qualify as small. Charities are covered to the same extent as other organisations and individuals. This means if a charity is not small business, FSCS won't be able to cover it.

Jess Spiers 07:08

Okay, as you just mentioned charities there, why don't we move on to charities now and let's start with how we can protect charities' deposits?

Amy Alford 07:17

Sure, the first thing I'd say is that the charitable status of the charity isn't relevant when determining eligibility. Instead, what does determine the charity's eligibility for FSCS protection is how the charity is set up. That's its underlying nature and legal structure. If you're not sure how the charity is set up, you can find this in its governing documents.

Jess Spiers 07:39

And can you tell us a bit more about these different underlying structures and how they affect FSCS protection?

Amy Alford 07:45

I can indeed. So, in England and Wales, there are four main types of underlying legal structures. The first three are a charitable incorporated organisation, second, a charitable company limited by guarantee, for example, a limited company, and third, an unincorporated association for example, a club.

FSCS would generally treat these types of charities as the 'claimant' or depositor, and we'd apply our eligibility criteria to the charity directly. All the charities' accounts held with the failed bank or banking group will be added together and protected up to the compensation limit, which as I've said before, it's currently £85,000.

Jess Spiers 08:29

Yeah, that makes sense. And as you've just mentioned banking groups there, could you quickly give us a bit more detail on what these are and why they're important?

Amy Alford 08:38

I can. A bank or building society can have more than one brand within it that share the same banking license and are part of the same banking group. So, this means that brands that appear to be separate can actually be connected. And that has an impact on how much of your money is protected.

This is where the current £85,000 compensation limit is important. If your charity holds money in multiple accounts with banks that are part of the same group, we have to treat them as one bank. This means that the £85,000 limit applies to the total amount you hold in all your accounts for these brands, not each account individually. So, this means that how a charity spreads its money can affect the amount of compensation it's entitled to.

We've got a Bank and Savings Protection Checker on our website that you can use to check if the banks and building societies that you hold your money in are connected, and if any of the money wouldn't be protected if they were to go out of business. Just go to www.fscs.org.uk/check to find this.

Jess Spiers 09:37

I'm glad you mentioned the protection checker there Amy actually, as it's such a handy way of checking if your deposits are protected and it actually really doesn't take long at all. So, I would definitely recommend people go and have a look at that.

So, you just mentioned the first three types of these underlying legal structures a charity can have, what is the fourth one?

Amy Alford 09:54

The fourth type is a trust. How FSCS treats a depositor that's a trust depends on the type of trust arrangement in each case. There are two kinds, a 'bare trust' and a 'non-bare trust'.

Let's start with funds held under a bare trust. Under the depositor protection rules we have to follow, there are circumstances where we can look through a named account holder to treat each absolutely entitled beneficiary as a separate claimant. A beneficiary of a trust is only ever absolutely entitled to funds held under a bare trust. Each eligible beneficiary is entitled to the current compensation limit of £85,000. All deposits the beneficiary is entitled to that are held with the same bank or another bank in the same banking group, whether directly or as a beneficiary under a trust, would be added together.

Jess Spiers 10:47

Okay, so that's bare trust. What about funds held under a non-bare trust?

Amy Alford 10:52

Yes, so funds can be held under a non-bare trust, like a discretionary trust or charitable purpose trust. The beneficiaries of a non-bare trust are not absolutely entitled to the funds held on trust, we would usually consider the trust itself as the claimant in these cases.

The current £85,000 compensation limit per authorised institution is applied to the trust. All the trusts accounts, held with the same bank, or another bank and the same banking group, are added together and the total amount protected is £85,000. This is regardless of the number of beneficiaries under the trust. Trustees have a separate claim for each separate trust that they are a trustee of.

Jess Spiers 11:34

Great, thank you. And I think that about wraps it up actually for how we protect small businesses, limited companies and charities. As we said before, there's a lot of information there, lots to take in. You can find all of it on our website in the 'Making a Claim' section. And that just one more time is www.fscs.org.uk.

Okay, Amy, we've come on to the final question that we ask all of our guests - We're all about keeping your money safe the FSCS, but what was the toy got you breaking open your piggy bank as a child?

Amy Alford 12:06

Oh, I remember spending lots of my pocket money collecting the series of Snoopy toys that McDonald's put in Happy Meals in the 90s! I had quite a good collection of them, but I don't think I ever fully completed it, unfortunately.

Jess Spiers 12:19

That's a great answer, Amy, and I'm sorry you didn't ever get to complete your collection.

Amy Alford 12:23

I know, I keep thinking I should look on eBay and see if I can just finish it off.

Jess Spiers 12:28

Yeah, I think you should! So, thanks very much, Amy, for all the information you shared with us today. If you want to hear more from FSCS. You can find all of our podcast episodes on our website and wherever you usually listen to your podcasts. If you give us a follow, you'll never miss a new episode. Thanks for listening!