FSCS Podcast #42: The role of an insolvency practitioner when a financial services firm fails

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.

Nigel Yeates 00:27
Welcome to Episode 42. I'm Nigel Yeates and I'm Senior Communications and Stakeholder Business Partner at FSCS, your host for today's podcast. FSCS, which is the Financial Services Compensation Scheme, exists to protect customers of authorised financial services firms that have gone bust by paying eligible people compensation. We protect lots of financial products, but not all of them. So, this podcast is designed to help you understand our protection and why it's so important. So, whatever your level of financial knowledge, if it's quite basic, or if you're a bit of a pro, we're here to help you feel confident your money is safe.

In today's episode, we're going to be talking about the role of an insolvency practitioner, also known as an IP, when a financial services firm fails and FSCS steps in to support customers. We're covering this topic today as it's a key role that's involved when a financial services company fails, but we know many people won't fully understand what an IP is, or what they do.

Here to explain it all, I'm delighted to say we have two great guests, Stef Parry, from the team here at FSCS, and James Cameron, a guest from PwC who is an insolvency practitioner, or IP, we work with across a range of firm failures. Welcome to the podcast, Stef and James, if you could briefly introduce yourselves.

Stef Parry 01:39
Hello. Good to see you both today and thanks for inviting me along, Nigel. I'm Stef Parry and I'm Resolution Technical Manager here at FSCS, and one of the main functions of my team is to ensure FSCS is prepared to respond quickly and effectively to firm failures. So, this means that we're often the first point of contact for IPs when they're supporting firms through an insolvency process. James.

James Cameron 02:08
Thanks, Stef, and thanks for inviting me. I'm James Cameron from PwC, and I'm an insolvency practitioner focused on insurance and financial services, which has resulted in me working with FSCS on a number of insolvent cases, such as Elite Insurance and Beaufort Securities. Whilst I am an IP, first and foremost, I try to help companies of varying size avoid insolvency, which is usually a process where more value is lost for creditors of the firm.

Nigel Yeates 02:36
Thanks both. Lovely to have you join us. So, as you're both first-time guests on the podcast, a little bit of warning that I'm going to be asking the question we usually ask our guests at the end of our episodes. So, we are all about keeping your money safe at FSCS, but which toy got you breaking open your piggy bank as a child? So please give that some thought as we discuss today's topic.

Stef, to set the scene, could you briefly explain who gets involved when a financial services firm fails and how IPs fit in?

Stef Parry 03:04
Thanks Nigel. So firstly, if a UK financial services firm goes out of business, we can compensate their customers within our rules and limits. Importantly, the firm has to be regulated by either the Prudential Regulation Authority, the PRA, or the Financial Conduct Authority, the FCA, and a key partner of ours in this process is the IP.

In many cases, the appointment of an IP is started by the firm's directors. So, when it becomes apparent that their business is insolvent, they have a duty to creditors to protect their interests. And a creditor is a person or business who is owed money or has a financial claim against the firm, and it's their interests that are placed above those of the company during this process. So, the firm will get the help of a licensed insolvency practitioner to provide advice and support as they move towards and through that insolvency process.

Nigel Yeates 04:00
Thanks Stef, that's great. So, the IP’s role is a crucial one in supporting the firm through insolvency. You mentioned the firm's directors can appoint an IP, who else can appoint them? And please also tell us a little bit more about IP firms.

Stef Parry 04:13
Well, IPs can also be appointed by a court when a winding up order is granted, or they can be appointed by a meeting of the creditors. So usually, when the IP has been involved with the company on an advisory basis in the run up to insolvency. IPs can work in the insolvency department of a legal or accountancy practice, or the IP can be a firm that specialises in insolvency itself. But really, regardless of how they are appointed, their main focus will be to handle the financial management of that failed company, which can include collecting and selling company assets to repay creditors. We have worked with PwC as an IP across several sectors, including investment firms, insurers, and special administrations.

Nigel Yeates 04:57
Great, thank you. A follow up question if I can, how can our customers see who the IP is for their failed firm?

Stef Parry 05:05
So, customers can usually find details for the IP either on the failed firm's website or on FSCS's website. IPs are also required to submit information to Companies House so that details of the insolvency are publicly recorded against the firm. On our site, you can search for the firm at the top of any page and find the information on that failed firm. You can also sign up here for updates that we post, so that customers can easily stay informed. The IP themselves usually also have a website page set up for each insolvency where they upload copies of the relevant documentation and information.

Nigel Yeates 05:42

Thanks Stef. And James, when does the IP enter the process for customers?

James Cameron 05:46
So, customers may simply see the firm's failure in the news, so for example, in local or national press. But often the first time the customers will see what has happened will be when the IP writes to them on their appointment explaining the situation and what the next steps are. In this email or letter, where it is possible to do so, we will also explain the role of FSCS in the process and the involvement of any other parties, such as the FCA.

Nigel Yeates 06:15
Great. And have you or other IPs in general, been involved even before this stage?

James Cameron 06:20
Yes, so often we will have been brought in to advise the firm in advance of an insolvency because they're experiencing financial or regulatory difficulties. So, we often support them through this journey as they seek to navigate their way through it and try to avoid insolvency.

Typically, the earlier a firm engages restructuring advisors, the more available options there may be on the table and minimises the level of value lost on a restructuring or insolvency. It can also provide really valuable time to undertake some form of contingency planning ahead of an insolvency appointment, to reduce the impact that an insolvency has on the customers of a firm as much as possible. So, during those days, weeks or months beforehand, we'll have been discussing all the available options with the firm and will have already been collaborating with the regulatory bodies such as FCA, and where an insolvency is looking unavoidable, with FSCS too.

As Stef touched on before, it's a well-established legal principle that the primary responsibility of directors shifts from shareholders to creditors, which will include the company's customers when the company is at real risk of insolvency. It's therefore imperative in our role where insolvency is unavoidable, that the company balances the priorities of creditors, the impact on customers and the position of FSCS in the run up to an appointment.

Nigel Yeates 07:42
Okay, that's really useful. Now let's take a step back to you and PwC, how did you or how does someone become an IP? Did you always want to be an IP when you grew up?

James Cameron 07:51
How honest shall I be? I never really envisaged being an accountant, never mind an IP growing up. So, my dad was an accountant, and when I worked part time for him during my university days, I spent most of my time playing Football Manager, to be honest. But then reality hits, and I had to get a real job.

So, I managed to get myself onto the PwC audit graduate route post-university in Leeds, before completing my ACA qualification. I then quite fancied a change and transferred to London into the insurance restructuring and insolvency team and after being involved from the very start of an insolvency a few times, I just really enjoyed the complexities and the varying needs of stakeholders in an insolvency situation. It was then that I thought that I wanted to become an IP to be at the forefront of trying to do the right thing, and where rescuing a company wasn't possible, trying to at least obtain the best possible outcome in those really difficult circumstances for those impacted.

So despite thinking my study days were behind me, I dusted off my highlighters and sticky notes and I sat what's called the Joint Insolvency Board exams, which were really intense exams, but thankfully with an excellent training provider to support me through, it's been really worth it in the end and the qualification allows you to take insolvency appointments.

Nigel Yeates 09:10
Thanks, James. It's great to be able to draw on your experience. Can you explain to our listeners, once an IP has been appointed, what are the key duties?

James Cameron 09:18
Yeah, so the overarching duty is usually to act in the best interests of creditors as a whole. The key duties will depend on the insolvency process, though.

So, in an administration, those duties will be dependent on the appropriate objective you are pursuing in the administration. For example, is the objective to rescue the company as a going concern? Or maybe, is it to achieve a better result for creditors as a whole than if the company were in a liquidation? In an insurance insolvency context, though, it may be that continuity of cover is important and it's therefore possible for an IP to facilitate that via an administration. A liquidation, however, will in general terms focus on the IP taking control of company assets and trying to recover as much value as possible for them, with a view of ultimately paying a dividend to creditors.

There are a number of other duties, but just one more I'd draw out here, is that an IP has a duty and the powers to investigate wrongdoing or fraudulent activity by the directors of the insolvent company.

Nigel Yeates 10:23
Thanks, James. As a follow up, can I ask you, are there particular challenges you face in the financial services sector, who are the kinds of firms that we work with you on?

James Cameron 10:31
I guess each situation is different and throws up different challenges, but the main ones I would draw out from my career so far probably covers three core areas. Firstly, it's getting access to and the lack of data that's available. Financial services and insurance companies are operating more and more through appointed representatives, cover holders or using other outsourcing arrangements, and this can create issues with accessing company data and customer records on a timely basis at the time of an insolvency, or even at all. You can then have the difficulty of being able to access critical systems which are run by third parties, whose relationship with the company has deteriorated over time with the business. This can make it really difficult, for example, to properly know who the company's customers are and to properly communicate with them.

Secondly, linked with the above is then when there is uncertainty over the completeness of the client money, client asset pools. Actual or potential missing funds or assets can undoubtedly cause distress for customers who have trusted their provider with life savings or investments. Whilst FSCS is there to protect customers, it is still an uncertain and worrying time for customers as they wait for further information, and FSCS does also have its compensation limits too.

The final challenge I will cover revolves around the ability to make decisions with limited information and managing the personal needs of say employees or customers who are looking for immediate certainty. So, using my previous point as an example, the exercises to reconcile client accounts and get to the correct position can take time. It's important to give timely information to customers and creditors so that they can understand what is going on, but it is more important to get it right.

Nigel Yeates 12:21
Stef, I imagine these challenges about data and records also make FSCS's job harder in many cases.

Stef Parry 12:28
Yes, absolutely. As I mentioned earlier, the rules we follow are set by the UK financial services regulators, the FCA and the PRA, and we are required to follow these rules when deciding whether a claim is eligible for FSCS compensation. So where we or the IPs are unable to access data, or that data is incomplete, this can make it a lot harder for FSCS to establish whether all of these qualifying conditions are met and unfortunately, that can really slow down the overall claims process for customers.

Nigel Yeates 13:03
Yeah, that's a great point Stef. And finally, can I ask you both what 'good' looks like in terms of the IP/FSCS relationship from your side? James, do you want to go first?

James Cameron 13:13
Sure. So personally, first and foremost, it revolves around us being as prepared and aligned as possible from the start of an insolvency. We do not always have the benefit of time, and insolvencies can frequently happen at short notice, so the timeliness and accuracy of communications issued to customers by IPs, FSCS and the FCA, which are easy to understand, is critical in my opinion. The earlier FSCS is able to confirm whether they will be protecting customers of a failed firm, the more that can help in reducing the concerns of customers of a failed firm.

The second thing is having a trusted relationship, which enables both IP and FSCS to engage on commercial and practical solutions to issues that arise, which are beneficial to the end customers, to the insolvent estate as a whole, and does not put FSCS unfairly at risk. I've been involved in a number of situations where FSCS has helped to create a better outcome for customers through the approach taken by them.

Nigel Yeates 14:11
Thanks, James. Really interesting to hear this from your perspective. Stef, what about from your side?

Stef Parry 14:17
Yeah, I completely agree with James's points there. As I mentioned earlier, one of our key objectives at FSCS is to protect customers in the event of a firm failing, and our relationship with insolvency

practitioners is really key in helping us prepare for these events. These failures can happen very rapidly and, in my experience, a good collaborative approach with IPs ensures that not only do customers receive the right information at the point of failure, but their claims are also processed more swiftly and accurately by FSCS, providing those customers with the protection and the compensation they are entitled to.

Nigel Yeates 14:53
Great thank you, and I think that about wraps it up for today's episode, looking at the role of the IP when a financial service firm fails. A lot of fantastic information there, so thanks again both for your contributions. You can find out more about FSCS and what happens when a firm fails on our website, which is www.fscs.org.uk.

Okay both, we've come on to the final question that we ask our guests. We're all about keeping your money safe at FSCS, but what was the toy that got you breaking open your piggy bank as a child? James, do you want to go first?

James Cameron 15:27
It's a great question Nigel. I love all things sport. So other than new sports equipment, it would have to be Subbuteo or Scalextric for me.

Nigel Yeates 15:37
Lovely. Lots of memories from my childhood there as well. Stef, how about you?

Stef Parry 15:42
Well, in hindsight, I was probably addicted to my Nintendo Game Boy, so I definitely would have been spending any spare pocket money on lots of games for that.

Nigel Yeates 15:54
Another great answer, thank you. Thanks so much again both for your time today. If listeners 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!