

**“THE APPLICATION OF
THE COMPENSATION
SCHEME TO
OCCUPATIONAL PENSION
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TO INDUSTRY
PROFESSIONALS.”**

INTRODUCTION

We're the Pensions and Lifetime Savings Association; the national association with a ninety year history of helping pension professionals run better pension schemes. With the support of over 1,300 pension schemes and over 400 supporting businesses, we are the voice for pensions and lifetime savings in Westminster, Whitehall and Brussels.

Our purpose is simple: to help everyone to achieve a better income in retirement. We work to get more money into retirement savings, to get more value out of those savings and to build the confidence and understanding of savers.

SUMMARY

- ▶ The application of the compensation scheme to occupational pension schemes remains opaque, inconsistent and incomprehensible to industry professionals.
- ▶ The FCA does not have a coherent set of principle underpinning its application of the compensation scheme to occupational pension schemes.
- ▶ The FCA should establish, along with the PRA and the industry a coherent set of principles under which pension scheme members of either DB or DC schemes should be eligible to claim against the scheme, and wield policy changes accordingly.
- ▶ The FCA should work with TPR to produce guidance for savers and pension scheme trustees that illustrates the kinds of situations in which a pension scheme member is eligible to make a claim against the compensation scheme.

The Pensions and Lifetime Savings Association welcomes the opportunity to respond to this consultation. We would like to begin our response by highlighting that both the current and the proposed application of the FSCS compensation regime to occupational pension schemes is highly complex – for pension scheme trustees and their legal advisers. Consequently, it is nigh on impossible to explain to pension scheme members the security of their assets in a clear and meaningful way. With consumer confidence at the heart of the compensation scheme's focus, the scheme's policies should be tested against whether they a) deliver the protection that the scheme seeks to provide and b) their application can be communicated simply and meaningfully.

Though the amendments proposed in this consultation are welcome, they paint an artificial air of simplicity. The security and liquidity of pension scheme assets is underpinned by a series of complex contractual relationships between pension schemes, their investment managers, insurance providers, reinsurance providers and other financial services firms. The way that the rules are applied to different financial vehicles in this chain often results in nearly indecipherable legal analysis for trustees conducting due diligence. This analysis is heavily reliant on industry best practice and probabilistic reasoning.

The Association believes that this consultation and its corresponding impact analysis illustrates that the FCA does not have a coherent set of principles underpinning its application of the compensation scheme to occupational pension schemes.

The Association's reading of this consultation identifies that the following three principals seem to factor into the proposed approach. However, the principles are not inconsistent with one another and do not support the proposals made.

Principle 1

- ▶ Since a Defined Benefit scheme's sponsoring employer and ultimately the Pension Protection Fund stands behind the scheme there is no need for the FSCS scheme to provide compensation for scheme member benefits where the relevant qualifying conditions are met.

Principle 2

- ▶ If a pension scheme is sponsored by a large employer then they shouldn't be able to claim compensation from the scheme.

Principle 3

- ▶ If a scheme is very sensitive to the loss of funds where they have been caused by the relevant qualifying conditions, such that compensation of £50,000 would make a tangible difference to their scheme funding position then they ought to be able to make a claim from the compensation scheme.

For the reasoning expounded in this consultation document, it is our impression that the FCA is updating its application of principle 2 with the recommended changes for money purchase schemes, that is, the size of the sponsoring employer ought to make no difference as to whether a scheme member can claim against the scheme where all other relevant qualifying conditions are met. The more pertinent question seems to be whether there exists a body standing behind the scheme i.e. Principle 1. However, Principle 1 is wielded inconsistently across the compensation scheme – varying according to the size of the sponsoring employer and whether the scheme is an

ordinary DB scheme or a SSAS. The third principle appears to justify why SSASs are able to claim from the scheme, being designated as somehow more vulnerable, irrespective of whether they have an employer and ultimately the PPF standing behind them.

Arguably where any scheme, large or small, has experienced a material loss of funds due to the insolvency and malpractice of their provider of financial services, their funding position is challenged, regardless of whether they have an employer standing behind them or not. If SSAS' funds are more vulnerable to being mismanaged or subject to negligence by third party FSA authorised firms, then this ought to be an issue of concern to the Pensions Regulator.

As a result of this incoherent application of different principles we call on the FCA to work with the Pensions Regulator in consultation with the industry to come to some conclusion about what principles ought to apply to pension scheme member eligibility to call on the scheme; and then apply this consistently across the industry.

So the Association asks the FCA to:

- ▶ work with the Pensions Regulator (TPR) to produce guidance for pension scheme savers and pension scheme trustees that coherently illustrates the kinds of situations in which a pension scheme member is eligible to make a claim against the scheme.
- ▶ establish, along with the PRA and the industry a coherent set of principles under which pension scheme members of either DB or DC schemes should be eligible to claim against the scheme, and wield policy changes accordingly.

We focus our response on those questions which have a direct application to pension schemes.

Please also note our recent consultation responses to the FCA's [CP15/30](#) and [The Pension Regulator's new DC code of practice](#) where we made related representations concerning the application of the FSCS regime to occupational pension schemes.

RESPONSE TO CONSULTATION QUESTIONS

QUESTION 2: DO YOU AGREE WITH OUR PROPOSAL THAT TRUSTEES OF OCCUPATIONAL PENSION SCHEMES OF LARGE EMPLOYERS PROVIDING MONEY PURCHASE BENEFITS SHOULD BE ELIGIBLE TO CLAIM ON THE FSCS?

Yes, the size of the sponsoring employer should make absolutely no difference to whether a member of the scheme (or a trustee acting on their behalf) should be able to claim compensation. This is a particularly welcome for savers participating in multi-employer money purchase schemes.

QUESTION 3: DO YOU AGREE WITH OUR PROPOSAL THAT TRUSTEES OF SSASS OF LARGE EMPLOYERS PROVIDING DEFINED BENEFITS SHOULD NO LONGER BE ELIGIBLE TO CLAIM ON THE FSCS?

We do not agree with this proposal and do not think the rules as they stand, or proposed changes to them, are clear on what principal trustees of defined benefit schemes ought to be able to claim from the compensation scheme on behalf of their members.

QUESTION 9: DO YOU AGREE WITH OUR COST BENEFIT ANALYSIS FOR THE CHANGES TO THE COMPENSATION SOURCEBOOK?

No. The analysis illustrates that to date the majority of claims have been made with respect to SSASs or SIPPs. Yet this information is not carried forward in your projections. This reinforces points made in response to Questions 3 – it is not clear on which principles the FCA is applying the compensation regime to occupational pension schemes and further clarity would be welcomed by the pensions industry and savers alike.

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