

**FINANCIAL SERVICES COMPENSATION SCHEME AND HM TREASURY FRAMEWORK
AGREEMENT**

7 July 2022

Contents

Purpose of Document	3
FSCS Purposes, Duties and Aims	3
Relationship with the Prudential Regulation Authority and the Financial Conduct Authority	5
Funding	6
Relationship with HM Treasury	6
HM Treasury’s Accounting Officer’s Specific Accountabilities and Responsibilities	7
Responsibilities of the Chief Executive as the FSCS Accounting Officer	8
FSCS Board	9
Annual Report and Accounts	9
Internal Audit	10
External Audit	10
Corporate Governance	11
Fraud and Theft	11
Annual Plan	11
FSCS Staff	12
Signatures and Dates	13

This Framework Document has been drawn up between HM Treasury and the Financial Services Compensation Scheme Limited (FSCS) in consultation with the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA). This document supersedes and completely replaces the earlier Framework Agreement that was signed by HM Treasury and FSCS in November 2012.

Purpose of Document

- 1.1 This Framework Document has been agreed between HM Treasury and FSCS. It sets out the broad governance framework within which FSCS and HM Treasury operate.
- 1.2 The document does not convey any legal powers or responsibilities but it sets out the intentions of both parties.
- 1.3 Copies of this Framework Document have been placed in the Libraries of both Houses of Parliament and on the FSCS website.
- 1.4 This Framework Document should be reviewed:
 - regularly and updated at least every 3 years; and/or
 - following any legislative amendments to Part 15 or 15A of the Financial Services and Markets Act 2000 (FSMA);unless agreed otherwise between HM Treasury and FSCS.

FSCS Purposes, Duties and Aims

Purposes

- 2.1 FSCS was set up in accordance with Part 15 of FSMA. FSCS is a private company limited by guarantee, set up as the ‘Scheme Manager’ under Section 212 of FSMA. FSCS administers the compensation scheme (the “Scheme”) which comprises the rules set by the PRA and FCA in accordance with Section 213 of FSMA. Subject to these Scheme rules, FSCS may be able to pay compensation to the customers of authorised financial services firms if they are unable, or likely to be unable, to meet claims against them. In some cases, rather than paying compensation, FSCS can seek continuity for customers or can make a financial contribution to the costs of the special resolution regime including the exercise of a stabilisation power in relation to certain firms.

Powers and Duties

- 2.2 The powers and duties of FSCS are derived from Parts 15 and 15A of FSMA and from the Scheme rules made by the PRA and FCA under those Parts.
- 2.3 Its statutory duties involve assessing and paying compensation to claimants, in accordance with the Scheme rules, in respect of claims made in connection with regulated activities carried on by authorised financial services firms, and raising levies on authorised financial services firms to meet its costs. FSCS is not regarded as exercising functions on behalf of the Crown (Section 212(6) of FSMA).
- 2.4 Subject to the Scheme rules, FSCS may be able to pay compensation in respect of claims relating to:
- Deposits;
 - Insurance policies;
 - Dormant Account Schemes;
 - Insurance intermediation (for business on or after 14 January 2005), including connected travel insurance (for business on or after 1 January 2009);
 - Investment business;
 - Home finance intermediation (for business on or after 31 October 2004); and
 - Debt management (for client money shortfalls for failures on or after 1 April 2019).
- 2.5 In addition, the FCA confirmed in July 2021 that, following consultation, it would extend the scope of FSCS protection to the customers of FCA-regulated pre-paid funeral plan providers and their intermediaries once this sector becomes regulated in July 2022.
- 2.6 In discharging its functions, FSCS must have regard to (Section 224ZA of FSMA):
- the need to ensure efficiency and effectiveness in the discharge of those functions; and
 - the need to minimise public expenditure attributable to loans made or other financial assistance given to FSCS for the purposes of the Scheme.
- 2.7 As set out in Part 15A of FSMA, HM Treasury may, in certain cases, by notice, require FSCS to act in relation to other schemes.

Aims

2.8 In support of and alongside carrying out its statutory duties and implementing the Scheme rules, FSCS:

- promotes awareness and understanding of FSCS protection in order to increase public confidence in the financial services industry in the UK;
- works with the PRA, FCA, and other regulatory partners and stakeholders, sharing intelligence to inform supervisory activity and to help reduce the risk and impact of disorderly failures; and
- pursues recoveries from the estates of failed firms and where appropriate from third parties wherever possible and cost effective, which reduces the costs for its levy payers.

Relationship with the Prudential Regulation Authority and the Financial Conduct Authority

3.1 FSCS pays compensation to customers of failed firms and levies firms accordingly in line with rules set out by the PRA and FCA. Under Section 212 of FSMA, the PRA and FCA must take such steps as are necessary to ensure that FSCS is, at all times, capable of discharging those statutory functions. However, FSCS is operationally independent of the PRA and the FCA in carrying out those functions.

3.2 FSCS has entered into separate Memorandums of Understanding (MOUs) with the PRA and FCA, which are publicly available here: www.fscs.org.uk/industry-resources/other-publications.

3.3 In relation to FSCS, the PRA and FCA are responsible for (inter alia):

- the appointment and removal from office of the chair, chief executive, and other members of the Board (in the case of the chair and chief executive, acting with the approval of HM Treasury). The terms of their appointment (and in particular the terms governing removal from office) must be such as to secure their independence from the PRA and FCA in the operation of the Scheme (Sections 212(3)–(5) of FSMA);
- the Scheme rules, which are set out by the FCA in the Compensation sourcebook and chapter 6 of the Fees manual of the FCA Handbook, and by the PRA in the Depositor Protection part, Policyholder Protection part, and Dormant Account Scheme part of the PRA Rulebook (Section 213 of FSMA; and the Financial Services and Markets Act 2000 (Financial Services

Compensation Scheme) Order 2013, which allocates responsibility for setting the rules relating to FSCS between FCA and PRA);

- setting the limit on the amount which FSCS may levy by way of management expenses for a particular period (the Management Expenses Levy Limit, or MELL) (Section 223 of FSMA); and
- setting the limit on the amount which FSCS may levy by way of compensation costs on different levy classes for a particular period (Section 214 of FSMA).

Funding

3.4 FSCS is funded by the financial services industry. Section 213(3)(b) of FSMA gives FSCS the power to impose levies on authorised persons to meet its expenses including the costs of paying compensation, borrowing or insuring risks.

3.5 The PRA and FCA are responsible for making the rules governing the funding arrangements for the Scheme.

Relationship with HM Treasury

4.1 HM Treasury is the government's economic and finance ministry and is responsible for the overall institutional structure of financial regulation and the legislation which governs it.

4.2 FSCS was reclassified by the Office for National Statistics in January 2021 as a Public Financial Auxiliary, applicable retrospectively, which means it is not part of central government nor an Arm's Length Body of HM Treasury. This reclassification decision means that some aspects of FSCS governance set out in FSMA will be revisited in due course.

The Responsible Minister

4.3 HM Treasury will account for FSCS on all matters concerning FSCS in Parliament. The Economic Secretary to the HM Treasury will, on behalf of HM Treasury, take responsibility for FSCS in Parliament and carry out the associated duties.

4.4 FSCS may also account for its business in Parliament where appropriate, including through evidence given to the Treasury Select Committee (TSC) or Public Accounts Committee (PAC).

4.5 The HM Treasury statutory powers in respect of FSCS are set out in FSMA.

- 4.6 Through the exercise of these powers HM Treasury:
- is responsible for the policy framework within which FSCS operates;
 - sets the regulatory perimeter which dictates which kinds of financial services and products need to be authorised by the regulators (the PRA and FCA) and, therefore, may be subject to FSCS protection under the Scheme; and
 - has a power of approval in relation to the appointment and removal of the FSCS Chief Executive and Chair
- 4.7 HM Treasury, under section 213 of FSMA, has responsibility for the legislation specifying the cases in which the FCA and the PRA may or may not make FSCS rules.
- 4.8 The Financial Stability Group at HM Treasury is the primary contact for FSCS. The Director of Financial Stability at HM Treasury is the responsible senior civil servant for this relationship, is the main source of advice to the responsible minister on the discharge of his or her responsibilities in respect of FSCS and supports HM Treasury's Principal Accounting Officer (PAO), the Permanent Secretary, on their responsibilities toward FSCS.

Public funds

- 4.9 FSCS may request to borrow from HM Treasury in order to fund compensation costs incurred or expected to be incurred which the financial services industry cannot absorb immediately without detriment to financial stability, including by borrowing from the National Loans Fund (NLF) as provided though Section 223B of FSMA. The framework for such borrowing is set out in a separate 'Funding Protocol' between HM Treasury and FSCS. Nothing in this Framework Agreement affects the terms of the separate Funding Protocol.
- 4.10 Specifically in respect of its ability to receive financial assistance from HM Treasury, FSCS has a responsibility for handling public funds, and agrees to comply with the principles of Managing Public Money when exercising this responsibility.

HM Treasury's Accounting Officer's Specific Accountabilities and Responsibilities

- 5.1 FSMA currently designates the FSCS Chief Executive as the FSCS Accounting Officer, which is reflected in a formal letter from HM Treasury's Principal Accounting Officer (PAO), the Permanent Secretary to the FSCS Chief Executive.

5.2 HM Treasury's PAO is not responsible for regularity, propriety, or value for money at FSCS. The Chief Executive of FSCS, reporting to FSCS's Board, holds these responsibilities.

Responsibilities of the Chief Executive as the FSCS Accounting Officer

6.1 Section 6 of this Framework Agreement is applicable only to the extent that FSMA designates FSCS's Chief Executive as its Accounting Officer.

6.2 FSCS's Accounting Officer is responsible for:

- safeguarding the public funds for which he or she has charge. In the case of FSCS, this takes the form of any financial assistance provided by HM Treasury;
- ensuring regularity and propriety in the handling of those public funds; and
- the day-to-day operations and management of FSCS.

6.3 FSCS's Accounting Officer is responsible to FSCS's Board for:

- advising on the discharge of the Board's responsibilities under FSMA, or as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time;
- advising the Board on FSCS's performance compared with its aims and objectives; and
- ensuring that financial considerations are taken into account by the Board in reaching its decisions, and that financial appraisal techniques are followed.

6.4 FSCS's Accounting Officer's responsibilities for accounting to Parliament include:

- signing the accounts and ensuring that proper records are kept relating to the accounts, and that the accounts are properly prepared and presented in accordance with any directions issued by and agreed with HM Treasury;
- signing a Statement of Accounting Officer's responsibilities, under this framework, for inclusion in the annual report and accounts;
- signing a Governance Statement regarding the system of internal control, for inclusion in the annual report and accounts; and
- giving evidence when summoned before the PAC.

FSCS Board

7.1 The Board is the governing body of FSCS and is responsible for promoting the success of FSCS by setting a clear strategic direction and supporting aims for the organisation. FSCS and its Board are subject to the provisions of the Companies Act 2006, and its directors have statutory duties under that Act.

7.2 The Board is specifically responsible for:

- setting strategy and making strategic decisions;
- overseeing the discharge by the executive of the implementation of corporate strategy and of the day-to-day business of FSCS;
- setting appropriate policies to manage risks to FSCS's operations and seeking regular assurance that the system of internal control within FSCS is effective at risk mitigation;
- maintaining a sound system of financial control;
- producing and filing an appropriately audited Annual Report and Accounts;
- taking decisions as set out in the Schedule of Matters Reserved to the Board and other decisions that are considered to be of such significance that they must be taken by the Board;
- delegating certain powers, duties and decision-making and reporting responsibilities to committees of the Board or to the Chief Executive, who may onward delegate; and
- maintaining high-level relations with other organisations and authorities, including the PRA, FCA and Government.

7.3 The Terms of Reference of the committees of the Board are publicly available at: <https://www.fscs.org.uk/about-us/org-info/org-struct/committees/>

Annual Report and Accounts

8.1 In line with normal practice the annual report and accounts shall be published and made available on FSCS's website. A draft of the report will be submitted to HMT, at least two weeks before the proposed publication date. A draft of the report will also be passed to the PRA and FCA.

8.2 HM Treasury is responsible for laying a copy of the FSCS annual report and accounts before Parliament.

8.3 The Annual Report must comply with any requirements specified in rules made by the PRA and/or FCA.

- 8.4 In line with normal practice, FSCS shall publish its Annual Report and accounts on its website.
- 8.5 FSCS's statutory financial statements are produced in accordance with the Companies Act 2006, International Financial Reporting Standards (IFRS) as adopted by the UK, as directed by the Accounts Directions issued by HM Treasury.
- 8.6 FSCS is also required, under Section 218 of FSMA, to report yearly to the PRA and FCA on the discharge of its functions.
- 8.7 FSCS includes in its Annual Report, on a voluntary basis, a report on how it is governed in line with the Principles of the UK Corporate Governance Code, as far as is appropriate.
- 8.8 Following reclassification by the Office for National Statistics (ONS) of FSCS as a Public Financial Auxiliary in January 2021 (applicable retrospectively back to December 2001), FSCS's accounts will be consolidated as an individual entity into the Whole of Government Accounts (WGA) from the 2021–22 financial year. FSCS will comply with any HMT requirements regarding data as needed in the production of the WGA.

Internal Audit

- 9.1 FSCS has arrangements for internal audit, which comply with the relevant Public Sector Internal Audit Standards (PSIAS).

External Audit

- 10.1 Under the Financial Services Act 2012, the Comptroller & Auditor General (C&AG) is the statutory auditor of FSCS.
- 10.2 The C&AG passes the audited accounts to HM Treasury who will lay the accounts together with the C&AG's report before Parliament.
- 10.3 The C&AG:
- will consult HM Treasury and FSCS on who – the NAO or a commercial auditor – shall undertake the audit(s) on the C&AG's behalf, though the final decision rests with the C&AG;
 - subject to HM Treasury making an order as set out in section 25(8) of the Government Resources and Accounts Act 2000, has a statutory right of access to relevant FSCS documents;

- will share with HM Treasury information identified during the audit process and the audit report (together with any other outputs) at the end of the audit on issues impacting on HM Treasury's responsibilities in relation to financial systems within FSCS; and
- will consider requests from Departments and other relevant bodies to provide Regulatory Compliance Reports and other similar reports at the commencement of the audit. Consistent with the C&AG's independent status, the provision of such reports is entirely at the C&AG's discretion

10.4 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which FSCS has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983.

Corporate Governance

11.1 FSCS shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and shall develop a risk management strategy. It shall also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract.

11.2 FSCS must administer the Scheme in accordance with the rules made by the PRA and FCA and any other applicable law to ensure that the Scheme is administered in a manner that is procedurally fair and in accordance with the European Convention on Human Rights.

Fraud and Theft

12.1 FSCS has adopted and implemented policies and practices to safeguard itself against fraud and theft.

12.2 FSCS will report instances of fraud and theft to HM Treasury where this relates to firm defaults where FSCS has received public funds.

Annual Plan

13.1 FSCS publishes its Plan and Budget on its website, in which it sets out its plans for the year ahead (Section 217B of FSMA). The Plan and Budget provide advance notice of expected costs to the Scheme (including management

expenses, compensation and interest costs), indicative levy figures, updates on failures and recoveries, claim trends and its investment strategy.

13.2 FSCS will provide advance sight of the annual plan to the PRA and FCA during the preparation of the annual plan.

FSCS Staff

14.1 FSCS has responsibility for the recruitment, retention and motivation of its staff, subject to the MELL.

14.2 FSCS staff are not Crown servants (Section 212(7) of FSMA).

Signatures and Dates

1) Signed for and on behalf of FSCS

Name: Caroline Rainbird

Signature:

A handwritten signature in black ink, appearing to read 'Caroline Rainbird', written in a cursive style.

Date: 11 May 2022

Position: Chief Executive Officer

2) Signed for and on behalf of HM Treasury

Name: Lowri Khan

Signature:

A handwritten signature in black ink, appearing to read 'Lowri Khan', written in a cursive style.

Date: 7 July 2022

Position: Director of Financial Stability