

FSCS DETERMINATION INSTRUMENT 2018 European Risk Insurance Company hf ("ERIC")

1. Using its powers in the Financial Services and Markets Act 2000 ("FSMA"), the Prudential Regulation Authority ("PRA") made compensation rules in the Policyholder Protection part of the PRA Rulebook (the "Policyholder Protection rules") providing the Financial Services Compensation Scheme Limited ("FSCS") with specific rights and obligations against firms in default and third parties.

2. On 12 February 2014, the Icelandic regulator, the Financial Supervisory Authority (FME) appointed a resolution board to assume all the powers of ERIC's board of directors and to manage ERIC's affairs in consultation with the FME. ERIC was declared in default by the FSCS on 28 April 2014, enabling FSCS to pay compensation to eligible effected policyholders.

3. FSCS is making this determination instrument under Rules 13.1 – 13.7 of the Policyholder Protection rules.

4. This instrument is made on 7 November 2018 and takes effect prospectively for any future payment of compensation and also retrospectively for any payment of compensation paid since 12 February 2014, including compensation paid in relation to ERIC under the previously applicable COMP rules.

5. FSCS determines that payment of compensation by it shall have the following effects:

1. Pursuant to Rule 13.7(1) of the Policyholder Protection rules, FSCS shall immediately and automatically be subrogated to all of the rights and claims in the UK and elsewhere of the compensation recipient against the ERIC and/or any third party (whether such rights are legal, equitable or of any other nature whatsoever and in whatever capacity the ERIC or third party is acting) in respect of or arising out of the compensation recipient's claim;

11. Pursuant to Rule 13.7(2) of the Policyholder Protection rules, FSCS may claim and take legal or any other proceedings or steps in the United Kingdom or elsewhere to enforce such rights in its own name or in the name of, and on behalf of, the compensation recipient or in both names against the ERIC and/or any third party; and

111. Pursuant to Rule 13.7(3) of the Policyholder Protection rules, the subrogated rights and claims conferred on FSCS shall be rights of recovery and claims against the ERIC and/or any third party which are equivalent (including as to amount and priority and whether or not the relevant participant firm is insolvent) to and not exceed the rights and claims that the compensation recipient would have had.

6. The payment of compensation by FSCS will be subject to the FSCS's Insurance Payment Terms, which are available online at <https://www.fscs.org.uk/your-claim/terms-and-conditions/insurance-payment-terms/> and on request from FSCS.

7. FSCS reserves the right to amend, remake, or revoke these determinations at any time as permitted by Rule 13.3(5) of the Policyholder Protection rules.

8. Unless defined in this determination, all expressions used which are also defined terms in the PRA Rulebook Glossary shall have the same meaning as given to them in that glossary.

The Executive is authorised by FSCS's Board to decide whether, and to what extent, FSCS should use the powers under Chapter 13 of the Policyholder Protection rules in respect of defaults arising on or after 1 January 2011.

This Determination agreed on behalf of the Executive by:

 

Signature

13/11/18

Date