


FSCS DETERMINATION INSTRUMENT 2020 (Midas Financial Solutions (Scotland) Ltd)

1. Using its powers in the Financial Services and Markets Act 2000 ("FSMA"), the Financial Services Authority ("FSA") made compensation rules in Chapter 7 of the Compensation Sourcebook of the FSA Handbook ("COMP") providing the Financial Services Compensation Scheme Limited ("FSCS") with specific rights and obligations against firms in default and third parties. On 1 April 2013, the Financial Conduct Authority ("FCA") became responsible for the conduct of business regulation for all authorised firms and prudential regulation for firms other than banks, building societies, credit unions, insurers and major investment firms. From that date, the compensation rules relevant to investment firms (other than major investment firms) can be found in the Compensation Sourcebook of the FCA Handbook.
2. On 6 September 2019, Midas Financial Solutions (Scotland) Ltd (the "Firm") was dissolved as the result of a compulsory strike-off and was declared in default by FSCS (the "FSCS Default") on 9 March 2020 for the purposes of COMP 6.3.1(1)R of the COMP Sourcebook.
3. FSCS has determined to use the powers in COMP Chapter 7.3R set out below in respect of the Firm and all eligible claimants who have protected investment claims against the Firm as at the date of the FSCS Default ("claimants"). For the avoidance of doubt, claimants will not include those investors who have assigned their claim against the Firm to a third party, nor will it include the third party to whom the claim against the Firm has been assigned.
4. Using the powers specified below, FSCS has determined that:
 - i. The payment of compensation to claimants (or, where applicable, to representatives of claimants) shall have the effects specified in COMP 7.3.8R(3), (4) and (5);
 - ii. In accordance with COMP 7.3.8R(3), FSCS shall be subrogated to all of each claimant's rights against the Firm and/or any third party in respect of the claimant's claim; and
 - iii. In accordance with COMP 7.3.10R, in the event that any of the scenarios listed in COMP 7.3.10R(1)(a)-(c) arise, claimants shall be treated as having irrevocably and unconditionally appointed the chairman of the FSCS for the time being to be their attorney and agent and on their behalf and in their name or otherwise to do such things and execute such deeds and documents as may be required under such laws of the United Kingdom, another EEA State or other state or law-country to create or give effect to such assignment or transfer or otherwise give full effect of those powers.
5. FSCS reserves the right to amend, remake, or revoke these determinations at any time as permitted by COMP 7.3.4R(5).
6. This instrument is made under COMP 7.3R and takes effect on 9 March 2020.

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

This Determination under COMP 7.3R is agreed on behalf of the Executive by:



A handwritten signature in black ink, appearing to be 'JB', is written over a horizontal dotted line.

Jimmy Barber, Chief Operating Officer, FSCS

Date: 27 March 2020

Time: 9am

Statement in accordance with COMP rule 7.3.4(3)

The FSCS has made a determination under COMP rule 7.3 in respect of Midas Financial Solutions (Scotland) Ltd (“the Firm”). The relevant determination instrument is available to view on the FSCS website.

The determination exercises FSCS 's power under COMP 7.3 so that when FSCS pays compensation to an investor it will automatically subrogate to all the rights of the investor against the firm and any third parties. Automatic subrogation is a way in which legal rights can pass from one party (e.g. an investor) to another (e.g. FSCS) without either party having to actively do anything- the transfer happens 'automatically' by law. The transfer of rights to the FSCS will happen only if an investor accepts our compensation.

When compensation is paid, all of the investor’s rights in respect of their investment will transfer to FSCS. This is the case even if the amount of compensation is less than the amount of the investor’s full loss. So if the investor had an investment worth £100,000 and accepts compensation from FSCS of £85,000, all £100,000 worth of their rights will transfer from the investor to the FSCS (even though the investor can only receive a maximum of £85,000 in compensation).

The effect of the rights transferring to the FSCS is that the investor will not be able to make any legal claim in respect of those rights, either against the firm or any other person or business.

For example, the investor will not be able to receive recoveries made by the administrator in the insolvency of the firm. Those recoveries will instead be paid to FSCS.

FSCS will keep any recoveries it receives in relation to an investor’s rights up to the amount of compensation it has paid to the investor. Any recoveries FSCS receives in excess of that amount, it will pay over to the investor, subject to allowance for costs.

FSCS has to use investors’ rights that are vested in us to pursue all and only such recoveries as we consider are likely to be reasonably possible and cost effective to pursue. If we decide not to pursue such recoveries in relation to a particular claim, and the relevant investor wishes to pursue those recoveries themselves, they can request a reassignment of their rights from FSCS.

If you have any questions about the automatic subrogation, please contact us on 0800 678 1100 or 0207 741 4100.

