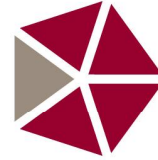


Irish Brokers
association



Irish Brokers association

Compensation Fund Information Leaflet

Member Information Document

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Introduction

There has been a number of instances in the Financial Services industry where an authorised firm was unable, due to its own financial circumstances, to return clients 'investment instruments' and, or money. Investment instruments are defined in Section 2 of the Investment Intermediaries Act (1995) (see appendix I) The Compensation fund is funded by annual subscriptions from Irish Brokers Association members.

Background to the Compensation Fund

The Irish Brokers Association established the Fund in 1990 to meet the Bonding requirements of members and to provide additional protection to clients of members. The Fund currently is designed to support the statutory compensation arrangement which gives either 90% of the loss or maximum of €20,000, whichever is the lesser amount to valid claimants.

Current Rules and Limitations of the Compensation Fund

- The compensation fund of the Irish Brokers Association covers a member of the Association for €250,000 in aggregate or €100,000 per claim.
- Claims are paid ONLY if the defaulting investment firm (Broker) is a CURRENT member of the Irish Brokers Association.
- The claimant must have established a valid claim with the ICCL. This means that if after receiving compensation for the ICCL and there is still a short fall, the Irish Brokers Association compensation fund can consider a claim under the scheme. There is however one exception to this rule and that is **IF** the event giving rise to a loss to a client happened prior to the inception of the ICCL (1998) the Irish Brokers Compensation Fund can consider the claim.

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Frequently Asked Questions (FAQ's)

How would a client know of the Irish brokers Association compensation fund?

Under the Consumer Protection Code 2007 you as a regulated entity by the Financial Regulator must make a disclosure in your Terms of Business document that you are a member of the ICCL scheme and you should also state that you are part of the Irish Brokers Association Compensation Fund. The Association also sends out a certificate from the Compensation Fund each year and this should be displayed in a prominent position in your office. When or where it is appropriate you should inform clients that you are a member of both schemes which is a competitive advantage to you over other brokers in the market who do not belong to the Irish Brokers Association.

Are all types of Investment Instruments covered?

A very broad range of investment instruments, when sold by an Irish Brokers Association member, are covered under the scheme. These instruments include:

- Units in collective investment schemes
- Life insurance policies (including unit linked funds)
- Non-life insurance policies
- Tracker bonds
- Futures and options

Does it matter when the transaction was carried out that resulted in a claim?

All transactions carried out after the inception of the Irish Brokers Association Compensation Fund on 1 October 1990 are covered by the scheme. For claims arising after 1st August 1998 they must firstly be passed through the ICCL scheme and any shortfall can then be considered by the Irish Brokers Association Scheme.

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How much compensation will I receive?

The amount of compensation payable to each eligible investor is limited to 90% of net loss and the most that can be paid to any individual client is €100,000. (see above restrictions)

How long do I have to make a claim?

A claim can only be made through the compensation fund once you have dealt with your claim through the ICCL and the compensation received from ICCL is not sufficient to cover the loss. Please note you must submit your claim with the ICCL within 5 months of the court ruling or the Financial Regulator's determination that the firm in question is unable to meet its financial obligations to its clients.

Limitations of the Compensation Fund

The following are the main limitations of the Irish Brokers association Compensation Fund:

- Compensation fund claims cannot be made for losses arising from bad investment advice, poor management or misrepresentation.
- Compensation fund claims cannot be made for losses caused by a fall in the value of your investment due to market or economic conditions.
- The compensation fund is only open to clients who have dealt with an Irish Brokers Association member
- Compensation can only be paid where we are notified by the Financial Regulator:
 - That it is determined that the authorised firm cannot meet its financial obligations to meet its investors claims
 - OR
 - That an authorised firm has been the subject of a court ruling that prevents it from returning money or investment instruments to clients.
- There are limits to amounts payable are the lesser of 90% of any net loss or €100,000 and €250,000 in aggregate
- Transactions carried out after August 1st 1998 must submit a claim to the ICCL scheme before going through the Irish Brokers Association fund. In the event that the amount received from ICCL does not adequately cover the loss then the Irish Brokers Association can consider a claim in this instance.

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Appendix I - Investment Instruments as defined:

"investment instruments" includes

(a) transferable securities including shares, warrants, debentures including debenture stock, loan stock, bonds, certificates of deposits and other instruments creating or acknowledging indebtedness issued by or on behalf of any body corporate or mutual body, government and public securities, including loan stock, bonds and other instruments creating or acknowledging indebtedness issued by or on behalf of a government, local authority or public authority, bonds or other instruments creating or acknowledging indebtedness, certificates representing securities,

(b) non-transferable securities creating or acknowledging indebtedness issued by or on behalf of a government, local authority or public authority,

(c) units or shares in undertakings for collective investments in transferable securities within the meaning of European Communities (Undertakings for Collective Investments in Transferable Securities) Regulations, 1989 ([S.I. No. 78 of 1989](#)), and any subsequent amendments thereto, units in a unit trust, shares in an investment company, capital contributions to an investment limited partnership,

(d) financial futures contracts, including currency futures, interest rate futures, bond futures, share index futures and comparable contracts,

(e) commodity futures contracts,

(f) forward interest rate agreements,

(g) agreements to exchange payments based on movements in interest rates, currency exchange rates, commodities, share indices and other financial instruments,

(h) sale and repurchase and reverse repurchase agreements involving transferable securities,

(i) agreements for the borrowing and lending of transferable securities,

(j) certificates or other instruments which confer all or any of the following rights, namely

(i) property rights in respect of any investment instrument referred to in *paragraph (a)* of this definition; or

(ii) any right to acquire, dispose of, underwrite or convert an investment instrument, being a right to which the holder would be entitled if he held any such investment to which the certificate or instrument relates; or

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(iii) a contractual right (other than an option) to acquire any such investment instrument otherwise than by subscription,

(k) options including

(i) options in any instrument in *paragraphs (a) to (j)* of this definition, or

(ii) currency, interest rate, commodity and stock options including index option contracts,

(l) hybrid instruments involving two or more investment instruments,

and includes any investment instrument in dematerialised form, but this definition shall not be construed as applying to

(I) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services; or

(II) a cheque or other similar bill of exchange, a banker's draft or a letter of credit; or

(III) a banknote, a statement showing a balance in a current, deposit or savings account or (by reason of any financial obligation contained in it) to a lease or other disposition of property, or an insurance policy;

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