INFORMATION ON INVESTORS' COMPENSATION

The Investor Compensation Company Limited (ICCL)[1] maintains a fund from which compensation can be paid to clients of a failed investment firm who have lost money or investments. Its main goals are to (i) operate a financially sound scheme that can compensate eligible investors of failed investment firms, (ii) set up and maintain funds out of which it can pay both compensation and its costs, (iii) set up and maintain a structure that it can use to pay compensation to investors of failed investment firms, and (iv) make sure it pays compensation as quickly as possible once a claim has been certified.

What the Investor Compensation Scheme covers

ICCL pays compensation if a member firm[2] of the Investor Compensation Scheme (the "Scheme") goes out of business and cannot return clients' investments or money and there has been either:

- A Central Bank determination, that is, the Central Bank of Ireland has notified ICCL that it has decided that an authorized firm cannot return the money or investments it owes clients; or
- A court ruling that prevents the failed investment firm from returning money or investments to investors.

However, in order for compensation to be due to a client, it must be an "eligible" investor. An "eligible" investor is a private customer of a failed investment firm. The Scheme does not provide compensation for owners or managers of the failed firm or "professional" or institutional clients, which includes (i) large companies, (ii) other financial firms, and (iii) people categorized as professional clients.

The Scheme covers a broad range of investments sold by investment firms. These are sometimes called "investment instruments". They include (i) public and private company shares, (ii) units in collective investment schemes, (iii) life insurance policies (including unit linked funds), (iv) non-life insurance policies, (v) tracker bonds, and (vi) futures and options.[3]

The Scheme covers all transactions carried out after 1 August 1998 when the Act came into law. In addition, transactions which come within the scope of the EU Investor Compensation Directive are covered even if the client entered into them before 1 August 1998.

<u>**Making a claim**</u>

There are three stages in the process of making a claim.

1. The Central Bank of Ireland writes and tells the ICCL that either:
    - It has decided that an authorized firm cannot repay investors; or

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[1] The Investor Compensation Company Limited (ICCL) is an independent body set up under the Irish Investor Compensation Act, 1998 ("the Act"). The Act has implemented the European Union Investor Compensation Directive into Irish law. In 1997, the Directive laid down the basic requirements for investor compensation schemes. This was done to protect investors across the EU.

[2] Citibank Europe plc is a member firm/intermediary of the Investor Compensation Scheme.

[3] The Scheme covers two lists of investment instruments which can be found in (i) Section 2 of the Investment Intermediaries Act, 1995; and (ii) Part 3 of the Schedule 1 of the European Communities (Markets in Financial Instruments) Regulations 2007.

- A court ruling that prevents the failed investment firm from returning money or investments to investors (this typically happens where a liquidator has been appointed).

2. Either the court (in case of liquidation or bankruptcy) or the Central Bank of Ireland appoints an administrator to the failed firm. The administrator will examine the books and records of the firm, identify the investors and send the ICCL a list of the known investors. If a client is a client of a failed firm and has not received a claim form, it must contact the ICCL as soon as possible. (Note that under the Investor Compensation Act there is a deadline for submitting a claim for compensation. The ICCL will notify the client of the deadline when it sends the claim form. However, this is usually about five months from the date of the court ruling or the Central Bank of Ireland's decision that the firm is unable to repay investors).
3. The ICCL will send a claim form. It will also publish notices in the national newspapers and/or in the Irish State Gazette (Iris Oifigiúil). (Note: it is very important to fill in the form fully, if the client leaves out any of the information the ICCL asks for, it will return the form which may delay the client's application for compensation).

As the claim is submitted to the ICCL, it will pass it to the administrator who will examine all claims. When the administrator has assessed the claim and has told the ICCL the results of the assessment, the ICCL will write to the client to tell it whether it is entitled to compensation. If so, the ICCL will also tell the client how much the compensation will be.

The administrator is appointed by the Central Bank of Ireland or by the High Court. In most cases the administrator will also be the official liquidator or receiver appointed to a failed investment firm. The administrator's job is to (i) identify who is eligible client of the firm, (ii) calculate the net losses that each eligible client has suffered, and (iii) verify how much compensation each eligible client is due under the Act. Once the administrator has finished the assessment, he or she will write to ICCL and Central Bank of Ireland with the results. The ICCL aims to pay compensation within three weeks of receiving the administrator's assessment.

Once the administrator has certified the client's claim, the ICCL will pay the compensation as soon as possible. However, if the records of the client and/or the records of the failed investment firm are inaccurate or unclear, that may delay the administrator in certifying the claims. The administrator may only certify a claim where there is proof of the investment firm's liability.

The administrator will decide how much the client has lost. The ICCL will pay the client 90% of the amount it has lost. However, the most the ICCL can pay each investor is EUR 20,000.

If the ICCL has paid compensation to the client and the client later gets its money or investment back (from insurance payment or from elsewhere), the client will have to return some or all of its compensation to the ICCL. The ICCL will use what the client has paid back to benefit future claimants.

What the Investor Compensation Scheme does not cover

The client cannot claim compensation for losses arising from bad investment advice, poor investment management, or misrepresentation. A client cannot claim compensation for losses caused by a fall in the value of its investment due to market movements, economic conditions or the operation of a provision of an investment instrument.

Making a Complaint

If the administrator decides not to pay compensation to the client or if the client later disagrees with the amount of compensation, it may appeal to the High Court of Ireland. If the client is not happy with the way in which the ICCL handled their claim, the ICCL has a formal complaint procedure with a number of stages which include a review of the case by the Chief Operations Officer and, if necessary, an independent investigation.

Additional information is available at http://www.investorcompensation.ie/scope.php