

PRESS RELEASE

Published Wednesday 7th December 2016

Investor Compensation Company Limited Publishes 2016 Annual Report

Introduction

The principal objective of the Investor Compensation Company Limited ["ICCL"] is to pay compensation to eligible investors when an investment firm fails and is unable to return client money and/or investment instruments. To support that objective, the ICCL collects annual levies from investment firms and retail intermediaries in order to build the reserves from which compensation can be paid. The ICCL is not funded by the State.

Key Events

Custom House Capital Limited (in Liquidation) ["CHC"] - Fund A Firm

This is the largest case that the ICCL has dealt with since its inception.

On 21st October 2011, the High Court placed CHC into liquidation and the Court appointed Mr Kieran Wallace of KPMG as Liquidator and Administrator to the firm, in accordance with section 33A of the Investor Compensation Act, 1998 (the Act). Mr Wallace, in his capacity as Administrator, has estimated that the ICCL may be required to pay compensation, on foot of claims from eligible investors of CHC, of up to €19.7 million. The impact that this would have on the ICCL's reserves has been fully recognised in prior year financial accounts.

The role of the Administrator to CHC, is to determine the extent to which clients of the firm had suffered losses. The Administrator achieves this by leveraging on his work as Court-appointed Liquidator whereby he reconciles the position of each client of the firm, through an examination of the books and records of the firm. He is then required to certify the individual losses of eligible investors to the ICCL. Once an investor's claim has been certified by the Administrator, the ICCL will make a compensation payment to that investor in accordance with the Act.

Following the failure of CHC, the ICCL received 1,977 claims for compensation from investors. During the past year, a total of 70 claims were certified by the Administrator resulting in compensation of €186,000 being paid to eligible clients of the firm. So far, aggregate compensation of €7.1 million has been paid. However, the fact that more than five years have passed since the collapse of CHC, over 1,400 claims have yet to be certified is most unsatisfactory. In many instances, client losses arose from the misappropriation of retirement-related investments, which has only served to exacerbate matters for the investors concerned.

The protracted delays that have transpired in CHC are attributable to issues that have arisen in what has proven to be a complex liquidation. Nevertheless, the unduly long wait for certification of claims was not envisaged when the investor compensation legislation was being introduced. Moreover, the fact that the ICCL is in a position to pay the compensation amounts due within a number of days of the certification of claims by the appointed Administrator (Liquidator) only serves to increase the frustration of the investors affected.

While the factors underlying the slow progress in claims validation are outside the control of the ICCL, we have continually sought the acceleration of this process in the course of engaging with the Administrator, including proposals to complete certifications on an interim or estimated basis. It is to be hoped that this would facilitate the expediting of certification of some of the outstanding claims by the Liquidator.

During the past year, there has been considerable progress made by the Liquidator in the resolving issues relating to the major class of client assets held by CHC – the “segregated” client assets. This has enabled arrangements for the return of the assets concerned to the investors involved to be advanced.

However, another major asset class in CHC – the pooled client assets – remains to be dealt with. These accounts were impacted by a very significant level of embezzlement. The Liquidator has indicated that the necessary reconciliation of these accounts is a complicated exercise because of the manner in which investors’ funds were misappropriated and subsequently used to part fund the acquisition of properties. The final level of distribution to the clients in the pooled assets (and the compensatable losses involved) can only be ascertained when the associated properties are sold and recoveries of misappropriated funds determined. That process is likely to take a number of years to complete. In that context, it is understood that the Liquidator is examining possible approaches to the distribution of pooled funds, including legal issues that may arise in advance of a required application to the High Court in relation to the deduction of costs involved in dealing with these assets. The ICCL will continue to seek progress in the certification of claims.

In the light of delays encountered in the certification of claims in CHC and earlier cases, the Board of the ICCL undertook a review of all aspects of the claims process with a view to improving the outcome for investors. A report incorporating recommendations for legislative and other changes has been sent to both the Department of Finance and the Central Bank, the supervisory authority for investor compensation.

Asset Management Trust Limited (AMT) – Fund B Firm

In February 2016, the Central Bank made a determination that AMT was unable to meet obligations to clients. The ICCL wrote to all clients inviting applications for compensation in circumstances where AMT had failed to return money or investment instruments that had been entrusted to the firm. Subsequently, a number of claims have been received seeking compensation for losses incurred. These claims are being assessed for eligibility for compensation by the appointed Administrator, Mr Des Ritchie. A provision of over €182,000 has been made in the financial accounts of the ICCL for this year in respect of potential compensation liabilities arising.

Irish Bank Resolution Corporation Limited (in Special Liquidation) [“IBRC”] - Fund A Firm

There were no certifications made in the year ending 31 July 2016 by the Joint Special Liquidators IBRC, Mr Kieran Wallace and Mr Eamonn Richardson of KPMG, who are also Joint Administrators for investor compensation purposes. During the year, the Joint Special Liquidators confirmed that no additional liability for the ICCL for compensation to clients of the bank was likely to arise. Most investors had been compensated through the statutory Deposit Guarantee Scheme. The Company had previously paid aggregate compensation of €12,400 arising from claims certified by the joint Administrators.

Funding

In the aftermath of obligatory provisioning for the substantial liability for compensation arising in the CHC case, the ICCL has continued to restore its reserves to appropriate levels to ensure adequate capacity to meet potential calls on the Scheme arising from the failure of investment firms. Cash reserves represent the primary buffer in the funding model and now amount to more than €50 million. These are supplemented by significant insurance cover arrangements. This provides for compensation paid in respect of Fund A (large investment firms) of up to €100 million and up to €10 million for Fund B (smaller investment firms/retail intermediaries), over and above of an excess of €15 million payable by the Company. In addition, standby credit facilities are available as are inter-fund borrowing arrangements.

Results for the year

The ICCL has recorded a surplus for the year of €4.7 million, which was an increase of €200,000 on the previous year. Total levies received amounted to €6.4 million, of which almost €5 million was attributable to Fund A and €1.4 million to Fund B.

As of 31 July 2016, the reserves of the ICCL stood at €48 million. This was comprised of Fund A reserves of €24.8 million (which are net of the estimated cost of €19.7 million in respect of claims arising from the failure of CHC) and Fund B reserves of €23.1 million. These resources will be built on further in accordance with the Company's latest three year funding cycle which commenced in the second half of 2016 and which foresees medium term reserve targets for the two funds of €35 million and €25 million respectively.

The ICCL's Strategic Plan 2016 to 2020

During the year, a new Strategic Plan for the period 2016-2020 was approved by the Board. This sets out the following high level objectives of the Company:

- To ensure that the Scheme is adequately funded by collecting levies from industry and managing reserves prudently.
- To handle claims for compensation promptly and to expedite the certification of claims.
- To manage the ICCL efficiently and effectively, implementing quality corporate governance and risk management procedures.
- To communicate effectively, manage relationships and be an advocate of change with all key stakeholders.

The Board regularly reviews progress towards the attainment of these strategic objectives and conducts an evaluation of the Plan annually.

Chairperson's comments

Speaking on the publication of the Annual Report, the Chairperson of the ICCL, Mr Jim Bardon, said:

"The past year has seen a further satisfactory strengthening of the ICCL's financial resources which had been diminished arising from compensation payable in the aftermath of the failure of two large investment firms that were members of the Compensation Scheme – Custom House Capital (CHC) and W & R Morrogh. Aggregate reserves have now reached €50 million, which when taken with other sources of funding including insurance and standby borrowing facilities, would enable the Scheme to meet liabilities of the order of €145 million for large investment firms (Fund A) and €35 million for smaller investment intermediaries (Fund B). I would like to express my appreciation to all of those member firms who continue to contribute annually to our Funds on a timely basis, such commitment being evidenced by the very high level of levy collection.

Despite our ongoing efforts to advance matters, I am disappointed that relatively little headway has been made in the certification of outstanding compensation claims in the CHC case. Notwithstanding the complexities arising in the liquidation of this firm, the prolonged wait endured by the eligible claimants concerned was never envisaged in investor compensation legislation. The ICCL has proposed to the Liquidator that where possible, he should consider certifying the claims on an estimated or interim basis in order to accelerate the process. We will continue to seek progress in relation to all outstanding claims.

The delays in claims certification in CHC and in the earlier Morrogh case underscore the need to address the impediments to the prompt payment of compensation. Accordingly, the Board of the ICCL initiated a review of all aspects of the claims process with the objective of recommending changes that would ultimately improve the outcome for investors of failed firms. A report containing recommendations in a number of areas has recently been completed and sent to key stakeholders, the Department of Finance and the Central Bank.

During the year, the ICCL invited claims from clients of Asset Management Trust, following a determination made by the Central Bank in respect of that firm. We are assisting the Administrator appointed, Mr Des Ritchie in the validation of claims received."

The Annual Report of the ICCL for the year ended 31 July 2016 is now available online at www.investorcompensation.ie

-ends-

For further information, please contact:

Mr Jim Bardon, Chairperson, Investor Compensation Company Limited

Mr Michael Fagan, Chief Operations Officer

Phone: (01) 2244955

Email: info@investorcompensation.ie

Website: www.investorcompensation.ie

Note for Editors:

The ICCL

The ICCL was established under the Act. Its principal objective is to establish and operate an investor compensation scheme in accordance with the terms of EU Investor Compensation Scheme Directive 97/9/EC. The Act provides that investment firms must become members of the scheme and contribute to its funding. Following industry consultation, detailed funding arrangements were put in place which provided for the establishment of two separate funds to take account of differences in activities of investment firms. (A description of these funds is also included in this note.) The ICCL is not involved in the regulation or supervision of investment firms.

The ICCL is fully funded through levies collected from participant investment firms and receives no State funding (see below).

Ten Directors represent either the interests of consumers (5) or the interests of the financial services industry (5) and are prescribed by the Minister for Finance. The Governor of the Central Bank nominates and appoints the Chairperson and Deputy Chairperson of the Board.

ICCL Funding Model

The ICCL consults with its participant firms once every three years concerning its funding for the following three years. The latest Funding Arrangements document was issued in May 2016 for the Funding Years ending 31 July 2017, 2018 and 2019. Section 1.2 of that document sets out the various sources from which the ICCL may draw funds in the event of a claim arising. This is referred to as a “cascade” of funding options. The options are as follows:

- Payments to be made out of the reserves built up in Fund A or Fund B, as appropriate.
- Additional top-up payments to be collected from participant firms subject to certain limitations on the additional amount in any one year.
- Claim on ‘Excess of Loss’ Insurance Policy where the level of claims in any one year exceeds €15 million per fund.
- Commercial borrowing may be arranged under the ICCL’s statutory borrowing powers. This borrowing would be subject to approval by the Central Bank. The ICCL has an arranged credit facility.
- Inter-fund borrowing. Under Section 19 of the Act, inter-fund borrowing is permitted up to one third of the fund, subject to the approval of the Central Bank.

The implementation sequence of the individual elements of the cascade model will be determined by the Board of the ICCL depending on circumstances prevailing at the time of default.

Role of the Administrator

The Act requires that the Central Bank of Ireland or High Court, as appropriate, appoint an Administrator to each new case. The principal roles of the Administrator are to review each claim received from clients of the failed investment firm, to verify the eligibility and net loss of each claimant and to certify the level of compensatable loss, if any, to be paid. The ICCL strives to ensure payment to each eligible client is made within two weeks of receipt of the certification statement from the Administrator.

www.investorcompensation.ie