



**INVESTOR COMPENSATION COMPANY LIMITED**  
**[www.investorcompensation.ie](http://www.investorcompensation.ie)**

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**Claiming compensation when an investment firm fails**  
**An information booklet for private investors**

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**July 2016**



**Plain English**

Approved by NALA

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The Investor Compensation Scheme operates under the Investor Compensation Act, 1998 (as amended) and other relevant laws.

This booklet gives the main points of the scheme and tries to answer any questions you may have. It is not a definitive guide to the scheme.

This booklet is not a legal document. If any information in it differs from the law, the law will apply.

## Introduction

Sometimes an investment firm goes out of business and cannot return investments or money that it owes to clients. These investments<sup>1</sup> may include:

- company shares,
- tracker bonds, or
- life and non-life insurance policies.

In the past, investors could do very little to get their money back and many suffered significant losses.

The Investor Compensation Company Limited (ICCL) was set up to give private investors a way to claim compensation without the need for expensive legal action.

The ICCL runs the Investor Compensation Scheme. It is funded by contributions from authorised or registered investment firms that are members of the scheme.

We can pay eligible investors 90% of the money they have lost, **up to a maximum of €20,000**.

This booklet tells you:

- what the scheme covers,
- who is an eligible investor, and
- how to make a claim for compensation.

If you have any questions about anything in this booklet or if you need more information, please contact us. Our contact details are on the back cover.

<sup>1</sup> For a full list of investments, please see Section 2 of the Investment Intermediaries Act, 1995 and Part 3 of Schedule 1 of the European Communities (Markets in Financial Instruments) Regulations 2007.

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# 1. About us

## 1.1 Why we were set up

In 1997, the European Union (EU) Investor Compensation Directive laid down basic requirements for investor compensation schemes. This was done to protect investors across the EU.

The EU left it to each individual member state to organise, finance and put in place its own scheme.

In Ireland, the Directive was put into Irish law on 1 August 1998 through the Investor Compensation Act, 1998. The Investor Compensation Company Limited (ICCL) is an independent body set up under this Act. The ICCL maintains a fund from which compensation can be paid to clients of a failed investment firm who have lost money or investments.

The EU is working with its member states and the European Parliament to make changes to the 1997 Directive. This may lead to changes that will benefit consumers, such as an increase in the maximum amount of compensation that is paid to investors. We will update the ICCL's website if and when such changes are introduced.

## 1.2 Our goals

Our main goals are to:

- operate a financially sound scheme so that we can compensate eligible investors of failed investment firms;
- set up and maintain funds out of which we can pay both compensation and our costs;
- set up and maintain a structure that we can use to pay compensation to investors of failed investment firms; and
- make sure we pay compensation as quickly as possible once the Administrator has certified the claim. Please see section 2.21 of this booklet for information about the Administrator.

We will apply the rules of the scheme fairly and sensitively.

**ICCL does not supervise or regulate investment firms**

Please see section 5 of this booklet for details of the organisations which regulate or supervise investment firms.

## 2. What the Investor Compensation Scheme covers

You probably have many questions about this scheme and what it means for you. In this section, we have used a question-and-answer format to help you understand:

- what the scheme covers;
- how the scheme can help you;
- how to make a claim; and
- how much compensation you may receive.

### How the scheme works

#### 2.1 How can the Investor Compensation Scheme help me?

You have the right to make a claim for compensation to the ICCL if a member firm of the scheme:

- goes out of business and cannot return your investments or money;
- and**
- a Central Bank determination (decision) or court ruling has been made under the Act.

However, you must be an 'eligible' investor for compensation to be due to you.

#### 2.2 Who is an eligible investor?

An eligible investor is a private customer of a failed investment firm. The Act excludes certain categories of investors such as professional or institutional investors and owners or managers of failed firms.

#### 2.3 How do I know if my investment firm is part of the scheme?

When you first deal with a firm, they should write to you saying that they are a member of the scheme. You can confirm this by checking with the firm's regulatory or supervisory body. You will find their contact details on pages 17 and 18.

Our website, [www.investorcompensation.ie](http://www.investorcompensation.ie), has a list of firms that are members of our scheme. However, we update this list only once a year. Please phone us at (01) 224 4955 to check if the firm you are dealing with is a member of our scheme.



## 2.4 What types of firms are members of the scheme?

The scheme covers a wide variety of financial services firms. These include:

- investment firms regulated by the Central Bank of Ireland;
- insurance intermediaries regulated by the Central Bank of Ireland;
- stockbrokers regulated by the Central Bank of Ireland;
- banks and building societies that carry out investment services and are licensed by the Central Bank of Ireland;
- accountants certified by their professional bodies to conduct investment business;
- credit unions that provide investment services; and
- UCITS management companies which are authorised to undertake individual portfolio management services. UCITS stands for Undertakings for Collective Investment in Transferable Securities. It is a type of collective investment scheme.

In this booklet, when we refer to investment firms we mean any or all of the firms listed above.

## 2.5 What types of firms are not covered by the scheme?

The scheme does not cover:

- insurance companies;
- the deposit-taking business of banks, building societies and credit unions. (For information on how your deposits are protected, see page 19);
- foreign firms selling investment services into Ireland from abroad. (Your investment in some of these firms may be protected by compensation schemes in other countries. The firm should tell you about the protection available to you); and
- collective investment schemes such as unit trusts or UCITS that are not authorised to undertake individual portfolio management services.

If you are not sure whether the firm you were dealing with is covered by the scheme, please contact the Central Bank of Ireland or ICCL.

## 2.6 What if the investment firm I am dealing with is still trading?

We only pay compensation if a member firm of the scheme:

- goes out of business and cannot return your investments or money;
- and**
- a Central Bank determination or court ruling has been made under the Act.

If you have a complaint about a firm that is still trading, you should first contact the firm. If you cannot sort out the complaint with the firm, you can contact the Financial Services Ombudsman. See page 18 for contact details.

## **2.7 Does the scheme cover all types of investments?**

The scheme covers a broad range of investments sold by investment firms. These are sometimes called 'investment instruments'. They include:

- public and private company shares;
- units in collective investment schemes;
- life insurance policies (including unit-linked funds);
- non-life insurance policies;
- tracker bonds; and
- futures and options.

The scheme covers two lists of investment instruments. You can find these lists in:

- Section 2 of the Investment Intermediaries Act, 1995; and
- Part 3 of Schedule 1 of the European Communities (Markets in Financial Instruments) Regulations 2007.

## **2.8 How do I know if an investment is covered under the scheme?**

EU law allows investment firms to sell both regulated and unregulated investments. The Investor Compensation Scheme covers only those investments listed in 2.7 above.

You should check with your investment firm to see if the investment product you are buying is listed. For example, direct investment in a property would not be covered.

## **2.9 Does the scheme cover my pension?**

In general, the Investor Compensation Scheme does not cover pensions. However, if you have a personal pension product, such as a Personal Retirement Savings Account (PRSA) or an Approved Retirement Fund (ARF) which you have arranged through an investment firm, it may be covered by the scheme. You should contact your investment firm and ask for details of the type of protection available to your personal pension product.

## **2.10 Can I claim compensation if my investment has fallen in value?**

Investing is seen by some people as a way of getting better returns than depositing money with the post office, banks or credit unions. However,

investing in shares and other investments is also more risky. Sometimes these investments may lose some of their value. Occasionally, they lose all their value. We do not pay compensation where the value of an investment has fallen due to market movements, economic conditions or the operation of a provision of the investment instrument, for example, the expiry of an option.

### **2.11 Does it matter when I invested the money?**

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

The Administrator appointed by the Court or the Central Bank of Ireland to manage a failed firm will decide which transactions are covered under the scheme.

### **2.12 Can I claim compensation if I don't live in Ireland or if I am not an Irish citizen?**

It doesn't matter where you live or whether you are an Irish citizen or not. You can claim compensation if:

- the firm you are dealing with is a member of the scheme; and
- you are a private customer of the firm.

### **2.13 Can I claim compensation if I deal with a firm on the internet?**

If you deal on the internet with a firm that is covered by the scheme and it goes out of business while owing you money or investments, you may claim compensation.

### **2.14 Does applying for compensation affect my rights with the firm?**

An application for compensation simply means applying for compensation that may be due to you under the Investor Compensation Act, 1998. Making an application does not affect your right to take legal action against the firm or other parties for any losses you may suffer. However, you must tell the ICCL if you take legal action in relation to your investments with the failed firm.

## Making a claim

### 2.15 When can I make a claim?

We only pay compensation if a member firm of the scheme goes out of business and cannot return your investments or money and there has been either:

- a Central Bank determination, that is, the Central Bank of Ireland has told us that it has decided that an authorised 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.

### 2.16 How does the process work?

There are three stages.

1. The Central Bank of Ireland writes and tells the ICCL that either:
  - it has decided that an authorised firm cannot repay investors; or
  - a court ruling prevents the firm from returning money or investment instruments to investors (this typically happens where a liquidator has been appointed).
2. Either the court (in the case of a 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 us a list of the known investors. However, in our experience such lists may be incomplete. If you believe that you are a client of a failed firm and you have not received a claim form, you must contact us as soon as possible. (Note: Under the Investor Compensation Act there is a deadline for submitting claims for compensation).
3. We will send you a claim form. We will also publish notices in the national newspapers and / or in Iris Oifigiúil telling investors about their right to make a claim. Iris Oifigiúil is the official State gazette which the government uses to make official announcements.

You can check the cases where the ICCL is at present paying compensation. See the 'ICCL cases' section on our website, [www.investorcompensation.ie](http://www.investorcompensation.ie).

### 2.17 Can any investor make a claim?

Our compensation scheme is only for private clients of a failed firm. It is not for owners or managers of the failed firm or for 'professional' or institutional clients, which include:

- large companies,
- other financial firms, and
- people categorised as professional clients.

## 2.18 How do I make a claim?

We will send you a claim form and tell you how to fill in the form and where to send it. You can also ask us directly for a claim form by writing to us and giving us your contact details.

When we send your claim form, we will also give you a personal reference number. **Please include this reference number each time you write to us.**

### Filling in your claim form

- Make sure you answer all the questions on the claim form.
- Write clearly and legibly.
- Give us **copies** of all the documents the failed firm sent to you (**if we ask for these**).
- Sign and date the form.
- Contact us at (01) 224 4955 if you have any questions about completing the form.

**It is very important to fill in the form fully. If you leave out any of the information we ask for, we will return the form to you. This may delay your application for compensation.**

## 2.19 How long do I have to make a claim?

We will tell you the deadline when we send you the claim form. 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.

It is vital that you send in your claim form by the deadline. We can only process claims received after the deadline if you can satisfy the Central Bank of Ireland that there were good reasons why you could not make the claim before the deadline expired.

## 2.20 How will you process my claim?

We will pass your claim to the Administrator who will examine all claims. When the Administrator has assessed your claim and has told us the results of the assessment, we will write to you and tell you whether you are entitled to compensation. If you are, we will also tell you how much it will be.

## 2.21 Who is the Administrator?

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:

- identify who is an eligible client of the firm;
- calculate the net losses that each eligible client has suffered; and
- verify how much compensation each eligible client is due under the Act.

The Administrator may contact you directly to check information.

Once the Administrator has finished the assessment, he or she will write to ICCL and the Central Bank of Ireland with the results. We aim to pay compensation within three weeks of receiving the Administrator's assessment.

## 2.22 Can I claim compensation under both this Scheme (Investor Compensation Scheme ["ICS"]) and the Deposit Guarantee Scheme ["DGS"]?

Where both schemes have been activated (e.g. as in the case of Irish Bank Resolution Corporation ["IBRC"]) you can claim under both, but only in respect of money/ investments covered by the relevant scheme. Where the same money/ investments are covered by both schemes, compensation will only be paid by one, normally by the DGS as the maximum compensation payable is currently higher under that scheme. In such a case the Central Bank of Ireland, under S35(8) of the Act, will determine whether you will be categorised as an "excluded investor" for the purposes of the ICS or alternatively as an "excluded depositor" for the purposes of the DGS.

## Getting paid

### 2.23 How long will it take you to pay me?

This depends on the detail and accuracy of your records and the records of the failed investment firm. If either side's records are inaccurate or unclear, it 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. Once the Administrator certifies your claim, we will pay you as soon as possible.

### 2.24 How much compensation will I get?

The Administrator will decide how much you have lost. We will pay you 90% of the amount you have lost. However, the most that we can pay each investor is €20,000.

## 2.25 How do you calculate compensation?

Here are some examples.

### Situation 1 - Investor A

Sum invested in member firm	In what product?	Outcome of investment	Compensation payable by ICCL
€10,000	Premium Bond	Bond never bought	€9,000 (€10,000 x 90%)
€10,000	Premium Bond	Bond bought	Bond returned to investor, so no loss and therefore no compensation due.
€10,000	Premium Bond	Bond bought but later stolen in a fraud	Current <sup>2</sup> value of bond x 90%. For example, if bond is now worth €12,000, compensation would be €10,800 (€12,000 x 90%).

### Situation 2 - Investor B

Sum invested in member firm	In what product?	Outcome of investment	Compensation payable by ICCL
€30,000	Units in a collective investment scheme	Units never bought	€20,000 (€30,000 x 90% = €27,000. However, the maximum payout is €20,000).

<sup>2</sup> All valuations are calculated by reference to the date of the Central Bank of Ireland's determination or the date of the High Court ruling.

## Situation 3 - Investors C and D

Sum jointly invested by two investors in member firm	In what product?	Outcome of investment	Compensation payable by ICCL
€35,000	Company shares	Shares never bought or Shares bought but later fraudulently invested	€31,500 (€35,000 x 90%). In both cases, the maximum payout is €40,000 (€20,000 for <b>each</b> investor). So, the investors would get a joint payment of €31,500.

### 2.26 Does ICCL have legal rights because it pays me compensation?

If we pay compensation to you, we have the right to try and recover some or all of this money. Under Section 35 of the Investor Compensation Act, 1998, we can take your place in any liquidation proceedings against the failed firm. However, we cannot recover more than the amount we have paid in compensation to you.

If we have paid you compensation and you later get your money or investment back (from an insurance payment or from elsewhere), you will have to give some or all of your compensation back to the ICCL. The ICCL will use what you have paid back to benefit future claimants.



### 3. What does the scheme not cover?

- You cannot claim compensation for losses arising from bad investment advice, poor investment management or misrepresentation. (In these cases, you should contact the Financial Services Ombudsman's Office. See page 18 for contact details.)
- You cannot claim compensation for losses caused by a fall in the value of your investment due to market movements, economic conditions or the operation of a provision of an investment instrument, for example the exercise or expiry of an option.
- You cannot claim compensation if you deal with a firm that is not a member of the Investor Compensation Scheme. (You can check whether a firm is a member of the scheme by contacting either ICCL or the firm's regulatory body. See page 18 for contact details.)
- The scheme does not pay compensation to institutions or professional clients. It is only for eligible private investors.
- We can only pay compensation where:
  - the Central Bank of Ireland tells us that it has decided that an authorised firm cannot return the money or investments it owes clients; or
  - a court ruling prevents the failed investment firm from returning money or investments to investors.
- There are limits to the amounts we may pay in compensation. We can pay only 90% of the amount lost, up to a maximum of €20,000 to each eligible investor.

## **4. Making a complaint**

### **4.1 What if I am not happy with the amount of compensation or the scheme's decision about my claim?**

If you need information about the amount of compensation that the Administrator has calculated you are due, you may contact the Administrator directly (we can give you the contact details) or you may contact us.

You have legal rights under Section 35 (7) of the Investor Compensation Act, 1998. You may appeal to the High Court if the Administrator decides not to pay compensation to you or if you disagree with the amount of compensation.

### **4.2 What if I am not happy with the way you handled my claim?**

We have a formal complaints procedure with a number of stages. These include a review of the case by our Chief Operations Officer and, if necessary, an independent investigation.

You can read about our complaints and appeals procedure on the Frequently Asked Questions (FAQs) section of our website. If you want a printed copy, please contact us and we will send you one.

## 5. Useful contacts

### 5.1 Central Bank of Ireland

The Central Bank of Ireland is responsible for regulating all financial services firms in Ireland. It also has an important role in protecting consumers who use those firms.

If you use an authorised firm, you will have access to the Central Bank of Ireland as the regulator of the firm if something goes wrong.

You can find out whether a firm is authorised by contacting the Central Bank of Ireland at [registers@centralbank.ie](mailto:registers@centralbank.ie).

#### **Contact details:**

Central Bank of Ireland  
PO Box 559  
Dame Street  
Dublin 2

Phone: (01) 224 6000  
LoCall: 1890 77 77 77  
Fax: (01) 671 6561  
Website: [www.centralbank.ie](http://www.centralbank.ie)

#### **If your investment firm has stopped trading**

If you have a complaint or claim against a firm that has stopped trading, you should first try to contact the firm. Although the firm may no longer be trading, it may have made arrangements to handle queries. If you do not get a response or you cannot sort out the problem with the firm, you can contact the Central Bank of Ireland.

## 5.2 Financial Services Ombudsman

The Financial Services Ombudsman deals independently with unresolved complaints from consumers about their dealings with financial services providers. It is a free service to the consumer.

### Contact details

Financial Services Ombudsman  
3rd Floor, Lincoln House  
Lincoln Place  
Dublin 2

Phone: (01) 662 0899  
LoCall: 1890 88 20 90  
Fax: (01) 662 0890  
Email: [enquiries@financialombudsman.ie](mailto:enquiries@financialombudsman.ie)  
Website: [www.financialombudsman.ie](http://www.financialombudsman.ie)

### **If your investment firm is still trading**

If you have a complaint or claim against a firm that is still trading, you should first try to contact the firm. If you cannot sort out the complaint with the firm, you can contact the Financial Services Ombudsman.

## 5.3 Other professional bodies

### **Institute of Certified Public Accountants in Ireland**

17 Harcourt Street  
Dublin 2

Phone: (01) 425 1000  
Email: [cpa@cpaireland.ie](mailto:cpa@cpaireland.ie)  
Website: [www.cpaireland.ie](http://www.cpaireland.ie)

### **Association of Chartered Certified Accountants**

9 Leeson Park  
Dublin 6

Phone: (01) 447 5678  
Email: [info@accaglobal.com](mailto:info@accaglobal.com)  
Website: <http://ireland.accaglobal.com>

## **6. Other consumer protection schemes**

### **6.1 Deposit Guarantee Scheme**

The Deposit Guarantee Scheme was set up to compensate depositors if a credit institution, such as a bank or credit union, fails.

If the institution where you deposit your money is unable to repay it, you may be able to get compensation from the Deposit Guarantee Scheme for your losses. The Central Bank of Ireland manages this scheme. See page 17 for contact details for the Central Bank of Ireland.

You can also get more information from the National Consumer Agency's website, [www.nca.ie](http://www.nca.ie).

### **6.2 Insurance Compensation Fund**

The Insurance Compensation Fund will pay compensation to customers if a non-life insurance company fails. The High Court administers this fund. A non-life insurance company sells different types of insurance such as home or motor insurance but it does not sell life assurance. It is also known as a non-life insurer.

If your non-life insurer fails, you should first contact that company or the Administrator or liquidator of that company. After that you can contact the Central Bank of Ireland, which regulates insurance companies. See page 17 for contact details for the Central Bank of Ireland.

You can find out more about the Insurance Compensation Fund in the Financial Regulation section of the Central Bank of Ireland's website under 'Non-Life Insurance Undertakings'.

### **6.3 Chartered Accountants Compensation Scheme**

You can get details of this scheme from:

#### **Chartered Accountants Ireland**

Chartered Accountants House  
47 Pearse Street  
Dublin 2

Phone: (01) 637 7200  
Website: [www.charteredaccountants.ie](http://www.charteredaccountants.ie)

Chartered Accountants House  
32-38 Linenhall Street  
Belfast  
BT2 8BG  
United Kingdom

Phone: +44 28 9043 5840  
Website: [www.charteredaccountants.ie](http://www.charteredaccountants.ie)

## 7. Some words explained

### **Administrator**

The person appointed by the High Court or the Central Bank of Ireland under the Investor Compensation Act, 1998 to assess and certify the compensation that may be due to eligible investors.

### **Authorised investment firm**

A firm authorised by the Central Bank of Ireland to provide investment products. See page 7 for examples of the types of firms.

### **Eligible investor**

A private client of a failed investment firm.

### **Investment instruments**

A term used for a range of investment products such as company shares, units in collective investment schemes, insurance policies, tracker bonds, and futures and options.

### **Non-life insurer**

A company that sells various types of insurance policies such as home or motor insurance but does not sell life assurance.

### **Regulated products**

Investments that are regulated by the Central Bank of Ireland.

### **UCITS**

A special type of collective investment scheme – it stands for ‘undertakings for collective investment in transferable securities’.

### **Unit trusts**

A collective investment scheme that a person invests in by buying units in the fund.

### **Unregulated products**

Investment products that are not regulated by the Central Bank of Ireland.

The Investor Compensation Company Limited  
c/o The Central Bank of Ireland  
Phone: (01) 224 4955  
Fax No: (01) 894 4614  
Website: [www.investorcompensation.ie](http://www.investorcompensation.ie)  
Email: [info@investorcompensation.ie](mailto:info@investorcompensation.ie)