

## Investor Compensation Company DAC publishes its 2022 Annual Report

### ***Introduction***

The Investor Compensation Company DAC ["ICCL"] is a statutory body established under the Investor Compensation Act, 1998, ("the Act") to provide, in the circumstances prescribed under that Act, compensation to eligible clients of failed investment firms, where such firms are unable to return client money and/or investment instruments belonging to them. The Compensation Scheme is primarily aimed at small investors and provides compensation of up to €20,000 for each investor for claims covered. The ICCL collects levies annually from investment firms in order to build the reserves from which compensation can be paid. The ICCL does not receive any funding from the State.

### ***Results for the year***

The ICCL has reported a surplus for the year to 31 July 2022 of €5.6 million, a reduction of €11.7 million on the previous year. (The 2021 results had benefitted from receipts of special levies which did not recur last year). At year-end, accumulated reserves stood at €88.1 million (up from €82.5 million in 2021). The reserves comprised of €62.1 million in the Scheme's primary fund (Fund A), which is dedicated to larger investment firms such as banks, asset managers and stockbrokers), and €26.0 million in the second fund (Fund B), which is earmarked for smaller investment firms including insurance brokers and retail intermediaries.

### ***Funding***

The reserves of the ICCL consist of accumulated levies collected from authorised investment firms that participate in the Scheme. Funding plans are set in advance for three-yearly cycles following consultation with stakeholders including the contributing firms. During the year, funding arrangements for the period 2023-25 were finalised and published. Since the financial year-end, the reserves have increased to €94 million, reflecting levies collected in the latest funding period.

This funding capacity is complemented by bespoke Excess of Loss insurance policies (underwritten by the Lloyds' market) and revolving credit facilities with a commercial bank, which provide additional resources of up to €110 million and €30 million respectively. As a result, the ICCL was in a position at the financial year-end to cover compensation claim obligations to affected eligible clients of failed firms of €192 million for Fund A firms and €36 million for Fund B firms, without the need to impose supplementary levies on member investment firms.

Currently, there are almost over 3,000 investment firms affiliated to the Scheme, which is broadly unchanged from 2021 and which includes 167 firms in Fund A.

### ***Cases***

No new compensation cases arose during the past year.

### ***Custom House Capital (CHC)***

CHC is the largest failure of an investment firm dealt with to date by the ICCL. This firm was wound up in October 2011 following substantial misappropriation of client investments, estimated at over €62 million by the CHC Liquidator. The ICCL received more than 2,300 claims for compensation from clients of the firm.

Prior to the commencement of the reporting period (1 August 2021), the ICCL had paid total compensation of €7.4 million on foot of the certification of 574 claims by the Liquidator/Administrator. Certification of claims had been deferred pending the outcome of the ICCL's High Court application for directions on the interpretation of legislative provisions affecting a number of aspects of claims by investors.

The Court's ruling in October 2021, which provided necessary clarifications on certain matters for CHC (and for future compensation cases), paved the way for the resumption of certifications and the related payment of compensation. Since that time, all remaining claims have been certified by the Administrator and the ICCL has paid out a further €3.8 million in compensation. In summary, over 93 per cent of all claims have now been fully processed by the ICCL resulting in the payment of €11.3 million in compensation to eligible clients. There are a number of claims yet to be paid, due mainly to issues regarding the contacting of claimants and the receipt of required declarations. The ICCL is endeavouring to conclude these outstanding claims as soon as possible.

### ***Money Markets International Stockbrokers Limited (MMI)***

The liquidation of MMI, which dates from March 1999, is continuing. The ICCL has paid €775,000 in compensation to eligible clients of the firm, the most recent payment being made some years ago. Resolution of certain issues in the liquidation is awaited and it remains unclear whether additional compensation will arise in the case.

### ***Chairperson's Comments***

Speaking on the publication of the Annual Report, the Chairperson of the ICCL, Mrs Jane Marshall, said:

*"The steady growth in the ICCL's financial reserves continued during the past year, thanks to the sustained support for the Compensation Scheme from contributing investment firms.*

*I am glad to report that the large bulk of claims from clients of CHC have been processed and paid. We are working to finalise the remaining claims as quickly as possible."*

The ICCL Annual Report for the year-ended 31 July 2022 is now available online at [www.investorcompensation.ie](http://www.investorcompensation.ie)

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**For further information, please contact:**

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**Mrs Marshall and Mr Fagan will be available to receive phone calls from the media on Friday 16 December 2022 from 10.30am until 11.30am. Any e-mailed requests for information will be attended to as quickly as possible and in the order in which they are received.**

### **Note for Editors:**

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 the activities of investment firms. 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 the interests of consumers (5) and the interests of the financial services industry (5) and are prescribed by the Minister for Finance. The Governor of the Central Bank of Ireland 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 in respect of the Funding Years ending 31 July 2023-25, which was issued in May 2022, outlines contribution rates payable by the different categories of authorised investment firms affiliated to the Scheme and the various sources from which the ICCL may draw funds in the event of a claim arising. These sources 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 supplementary amount in any one year.
- Claim on an '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 is subject to approval by the Central Bank.
- Inter-fund borrowing. Under Section 19 of the Act, inter-fund borrowing is permitted up to one third of the fund, subject to approval by 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 or the High Court, as appropriate, appoint an Administrator to each new case. This role is usually undertaken by the Liquidator of the insolvent firm concerned. The principal responsibilities 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.

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