



INVESTOR COMPENSATION COMPANY DAC
www.investorcompensation.ie

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

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Investor Compensation Company DAC

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The Investor Compensation Scheme (the "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.

Contents

1.	Introduction.....	4
2.	Some words explained.....	5
3.	About us.....	6
4.	What the Scheme covers.....	6
5.	Making a claim.....	10
6.	Payment of Compensation.....	13
7.	What does the Scheme not cover?.....	16
8.	Making a complaint.....	16
9.	Useful Contacts.....	17
10.	Other consumer protection schemes.....	18

1. Introduction

Sometimes an investment firm goes out of business and cannot return investments or money that it owes to investors. These investments¹ 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 DAC (the "ICCL") was set up to give **eligible investors** a way to claim compensation without the need for expensive legal action.

The ICCL runs the Scheme. It is funded by contributions from authorised or regulated 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 per eligible investor**.

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 above.

2. 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 of a failed investment firm.

Authorised investment firm

A firm authorised by the Central Bank of Ireland to provide investment services.

Eligible investor / client

An eligible investor / client of a failed investment firm as defined in the Investor Compensation Act, 1998.

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.

3. About us

3.1 Why we were set up

In 1997, the European Union (EU) Investor Compensation Directive introduced requirements for investor compensation schemes in all Member States. 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 implemented in Irish law on 1 August 1998 through the Investor Compensation Act, 1998 (the "Act"). The ICCL is an independent body set up under this Act. The ICCL maintains a fund from which compensation can be paid to eligible investors of a failed investment firm who have lost money or investments. The amount of compensation payable by the ICCL is determined by the Act.

3.2 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 eligible investors of failed investment firms.
- make sure we pay compensation as quickly as possible once the Administrator has certified claims from eligible investors; and
- apply the rules of the Scheme fairly and transparently.

The ICCL does not supervise or regulate investment firms.

Please see the section titled "Useful Contacts" of this booklet for details of the organisations that regulate or supervise investment firms.

4. What the Scheme covers

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

- how the Scheme could help you.
- how to make a claim; and
- how much compensation you may receive.

4.2 How the Scheme works

4.2.1. How can the Scheme help me?

You have the right to make a claim for compensation to the ICCL if you are an eligible investor with a member firm of the Scheme and that member firm:

- 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.

Should your claim be upheld by the Administrator as compensatable under the terms of the Act, you may be entitled to receive compensation for up to 90 per cent of your loss, up to a maximum of €20,000.

4.2.2. Who is an eligible investor?

An eligible investor is a private customer of a failed investment firm, not being an excluded investor. The Act excludes certain categories of investors such as professional or institutional investors, owners or managers of failed firms and a close relative¹ or a civil partner² of a director, manager or personally liable member of the investment firm.

4.2.3. How do I know if my investment firm is part of the Scheme?

When you first deal with a firm, they should inform you 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 in the section titled "Useful Contacts" of this document.

Our website, www.investorcompensation.ie, has a list of firms that are members of our Scheme under the *Participants>Participant Firms* tab. If this does not resolve your query, please phone us at (01) 244 4485.

4.2.4. 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.
- MIFID³ investment firms 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.

¹ "close relative" means a brother, sister, parent or spouse of a client or a child of the client or of the spouse of the client, where "spouse", in relation to the client, shall not include a spouse who is living separately and apart from the client.

² "civil partner" within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

³ "MiFID" stands for Markets in Financial Instruments Directive (2014/65/EU). It is the European Union legislative framework for the regulation of investment services and financial markets and applies to EU-based investment firms, regulated markets, and trading venues, providing a wide range of financial instruments and services.

- 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.

4.2.5. 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 the later section titled "Deposit Guarantee Scheme").
- foreign firms selling investment services into Ireland from abroad. (Your investments with these firms may be protected by compensation schemes in other countries. The firm should inform 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 ICCL.

4.2.6. 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 investment instruments or money.
- a Central Bank determination has been made under the Act or the High Court has appointed liquidators to the firm); and
- an Administrator is appointed by the Central Bank of Ireland or the Court.

4.2.7. Does the Scheme cover all types of investments?

The Scheme covers a broad range of **eligible** 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 specific types of investment instruments. You can find these in:

- Section 2 of the Investment Intermediaries Act, 1995.
- Part 3 of Schedule 1 of the European Communities (Markets in Financial Instruments) Regulations 2007; and
- Part 3 of Schedule 1 of the European Union (Markets in Financial Instruments) Regulations 2017.

4.2.8. 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 Scheme covers the types of investments listed in the section above titled "*Does the Scheme cover all types of investments?*".

You should check with your investment firm to see if the investment product you are buying is covered by the Scheme.

4.2.9. Does the Scheme cover my pension?

In general, the 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.

4.2.10. 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 banks or credit unions. However, investing in shares and other investments can be riskier. Sometimes these investments may lose 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.

4.2.11. Does it matter when I invested the money?

The Scheme covers all active transactions or business services provided by the investment firm as at the date of a determination by the Central Bank of Ireland or the appointment of an Administrator is appointed by the Central Bank or by the Court. The Administrator, as appointed by the Court or by the Central Bank,

will determine which transactions are covered under the Scheme.

4.2.12. 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 an eligible investor of the firm.

4.2.13. 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 and you are an eligible investor of the firm, you may make a claim for compensation.

4.2.14. 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.

5. Making a claim

5.1 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 order winding up / appointing liquidators to a failed investment firm.

The ICCL collects a list of eligible investors / clients from the Administrator, who is appointed by the Central Bank of Ireland or the Court and issues an invitation to each eligible investor / client to submit a claim for compensation.

5.2 How does the process work?

There are three stages:

1. The Central Bank of Ireland informs 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 eligible clients and send the ICCL a list containing contact details for these clients.

However, in our experience such lists may be incomplete. If you believe that you are an eligible client of a failed firm and you have not received a claim form, you must contact us as soon as possible. Please refer to our website (www.investorcompensation.ie) where we publish updates on the progress of each failure to include if all claim forms have been sent.

3. We will send you a claim form. We will also publish notices in the national newspapers and / or in Iris Oifigiúil telling investors / clients 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 or processing claim applications. See the '*Compensation Cases*' section on our website, www.investorcompensation.ie

5.3 Can any investor make a claim?

The Scheme is only for eligible investors of a failed firm and is not for 'excluded' investors such as owners or managers of the failed firm, close relative or civil partner or, 'professional' or 'institutional' clients, which include:

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

5.4 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 contacting us and giving us your contact details (note: the issuance of a claim form is subject to confirmation from the Administrator that you are an eligible investor for the

purposes of the Act).

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

Filling in your claim form

- Make sure you answer all the questions on the claim form.
- Provide a valid email address for future ICCL correspondence.
- Write clearly and legibly.
- Give us copies of all relevant or supporting documents the investment firm sent to you.
- Sign and date the form.
- Contact us at (01) 244 4485 if you have any questions about completing the form.
- Return the fully completed claim form to claims@investorcompensation.ie

It is very important to fill in the claim 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.

5.5 How long do I have to make a claim?

It is important that you send in your claim form as soon as possible but we will tell you the deadline when we send you the claim form. Claims received after the deadline are subject to clearance by the Central Bank before they can be accepted.

5.6 How will you process my claim?

We will pass your claim to the Administrator who will examine all claims. When the Administrator has assessed and certified your claim, we will contact you and tell you whether you are entitled to compensation. If you are, we will also tell you how much it will be and the next steps in the process.

5.7 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 investor / client of the firm.
- calculate the net losses that each eligible investor has suffered; and
- certify how much compensation each eligible investor is due under the Act.

The liquidator may contact you directly to check information in respect of your

investment with the firm as well as provide you with updates on the status of your investment. The ICCL does not have a role, as outlined in the Act, in the management of your investments nor do we have access to the books and records of the investment firm.

Once the Administrator has finished the assessment, also referred to as a "certification", of each eligible investor's investment, they will contact the ICCL informing us of any compensation that falls due. We aim to pay compensation within four weeks of receiving the Administrator's assessment.

5.8 Can I claim compensation under both this Scheme 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 Section 35(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.

6. Payment of Compensation

6.1 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 are inaccurate or unclear, it may delay the Administrator in certifying the claim. The Administrator may only certify a claim where there is proof of the investment firm's liability to client of the firm. Once the Administrator certifies your claim, we will pay you as soon as possible, typically within three weeks.

6.2 How much compensation will I get?

The Administrator will inform the ICCL of how much you have lost due to a compensatable event. We will pay you 90% of the amount you have lost up to a maximum of €20,000. The maximum amount is per eligible investor i.e. if there is an account with the investment firm that has two joint account holders, each account holder may be entitled to a maximum of €20,000.

6.3 How do you calculate compensation?

Here are some examples.

Situation 1 - Investor A

Sum invested with investment firm	In what product?	Outcome of investment	Compensation payable by ICCL
€10,000	Bond	Bond never bought	€9,000 (i.e. €10,000 x 90% of loss)
€10,000	Bond	Bond bought	Bond returned to investor, so no loss and therefore no compensation due.
€12,000		Bond bought but later stolen in a fraud	Value of bond x 90%. For example, if bond is worth €12,000 as at the date of "determination*", compensation would be €10,800 (i.e. €12,000 x 90%).

Situation 2 - Investor B

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

*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 with investment firm	In what product?	Outcome of investment	Compensation payable by ICCL
€35,000	Company shares	Shares never bought or Shares bought but later fraudulently sold.	€31,500 (€35,000 x 90%). i.e. €15,750 each.
€70,000	Company shares	Shares never bought or Shares bought but later fraudulently sold.	€40,000 (€70,000 x 90% = €63,000. However, the maximum payout per eligible investor is €20,000).

6.4 Does the 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 may 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.

7. 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 the subsequent section titled "Useful Contacts").

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 Scheme. You can check whether a firm is a member of the Scheme by searching the ICCL's website www.investorcompensation.ie under *Participant > Participant Firms* and inputting the firm's name, alternatively contact the firm's regulatory body.

The Scheme does not pay compensation to institutions, professional or excluded investors. It is only for eligible investors.

We can only pay compensation where an Administrator certifies a compensatable loss in respect of an eligible investor of a firm.

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.

8. Making a complaint

8.1 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 for onward transmission of the query to the Administrator.

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.

8.2 What if I am not happy with the way the ICCL 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 our website but if you want a printed copy, please contact us via email to claims@investorcompensation.ie and we will send you one. Complaints should be submitted to complaints@investorcompensation.ie or alternatively by post.

9. Useful Contacts

9.1 Central Bank of Ireland

The Central Bank of Ireland is responsible for regulating all financial services firms in Ireland. It also has a key 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

Contact details

Central Bank of Ireland

PO Box 559

Dublin 1

Phone: (01) 224 6000

Fax: (01) 224 5550

Website: www.centralbank.ie

If your investment firm has ceased 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 resolve the issue with the firm, you can contact the Central Bank of Ireland for assistance.

9.2 Financial Services and Pensions Ombudsman

The Financial Services and Pensions 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 and Pensions Ombudsman
Lincoln House
Lincoln Place
Dublin 2
Phone: (01) 567 7000
Email: info@fspo.ie
Website: www.fspo.ie

9.3 Chartered Accountants Ireland

Chartered Accountants Ireland is Ireland's leading professional accountancy body, representing over 40,000 members in over 100 countries.

Contact details

Chartered Accountants Ireland
Chartered Accountants House
47-49 Pearse Street
Dublin 2
Phone: (01) 637 7200
Website: www.charteredaccountants.ie

Chartered Accountants Ireland
Chartered Accountants House
The Lincenhall
32-38 Lincenhall Street
Belfast
Antrim
BT2 8BG
United Kingdom
Phone: +44 28 9043 5840
Website: www.charteredaccountants.ie

10. Other consumer protection schemes

10.1 Deposit Guarantee Scheme

The Deposit Guarantee Scheme (DGS) protects depositors in the event of a bank,

building society or credit union authorised by the Central Bank of Ireland being unable to repay deposits. The DGS is administered by the Central Bank of Ireland and is funded by the credit institutions covered by the Scheme.

You can get more information from www.depositguarantee.ie

10.2 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.

If your non-life insurance company 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.

You can find out more about the Insurance Compensation Fund on the Central Bank of Ireland's website: www.centralbank.ie

10.3 Brokers Ireland Client's Compensation Fund

The Brokers Ireland managed fund was established with the primary purpose of assisting the clients of Brokers who are members of Brokers Ireland where the Broker is unable, due to financial considerations, to return money to its clients. This can arise where the Broker's business is wound up at a time when it was holding money for its clients.

Payments from the Brokers Ireland Client's Compensation Fund are intended to complement any amounts recovered in a successful claim to the statutory Investor Compensation Company DAC. It is a condition of eligibility under the Compensation Fund that a successful claim has already been made through the ICCL.

Contact Details

The Trustee of the Brokers Ireland Compensation and Membership Benefits Scheme

c/o Brokers Ireland

87 Merrion Square

Dublin 2

Phone: (01) 661 3067

Email: info@brokersireland.ie