

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Mary Francis
Director General
Association of British Insurers
51 Gresham Street
London, EC2V 7HQ

13 March 2003

Our ref :- PR8/DB

Dear Mary

Voluntary compensation scheme

I am writing to you about a group of people unable to get compensation through the Financial Services Compensation Scheme (FSCS) for a reason unrelated to the merit of their case. We recently raised the problem when some Panel members including myself met with some of your colleagues at the ABI.

As you may know, the Financial Services Act 1986 required that there be a civil liability before compensation could be paid through the Investors Compensation Scheme (ICS). Limited firms that have been dissolved following a winding up can only be restored to the Register of Companies within a two-year period and after this time, claims against the company are extinguished preventing the ICS from paying compensation to their customers. As a result, a group of claimants were excluded from the scheme because of the type of firm they had a claim against. The FSCS estimate the number of consumers whose claims have been rejected on this basis to be around 500.

The problem was carried over into the compensation arrangements after N2. However, the FSA has now proposed rule changes which would allow the FSCS to pay the claims against firms dissolved since N2 (consultation paper 165). This proposal closes the gap in respect of the current compensation scheme, but due to previous legislation, it cannot deal with the cases outstanding from the pre-N2 arrangements.

At our meeting with the ABI, we suggested that this would be a good opportunity for the industry to step in to put right the consequences of an anomaly which has left a small number of consumers unfairly out of pocket. In our response to the FSA's consultation paper we have drawn attention to the consumers who, even after the rule changes, will be left without compensation and we have suggested that the industry should establish a voluntary scheme to meet their claims. This will be included in the Panel's press release.

I urge the ABI to consider seriously the proposal for establishing a voluntary fund for compensating the consumers who are victims of this anomaly – an unintended gap in the system which has left hundreds of people without the protection that they legitimately expected.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Colin Brown', with a long horizontal flourish extending to the right.

Colin Brown
Chairman
FS Consumer Panel

cc. Anna Bradley, FSA

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