



Investor Compensation Scheme

About the Investor Compensation Scheme

The Investor Compensation Scheme is a rescue fund (herein after called the “Fund”) for investors that are clients of failed investment firms licensed by the Malta Financial Services Authority (herein after called the “MFSA”). The Fund can only pay compensation if a licensed investment firm is unable or likely to be unable to pay claims against it. In general this is when the licensed firm stops trading or becomes insolvent.

The Fund is managed by a Committee appointed by MFSA. This Committee is made up of persons representing MFSA, the Central Bank of Malta, licensed firms, credit institutions and customers.

The Fund does not regulate licensed investment firms. Business conducted by investment firms licensed under the Investment Services Act is regulated by MFSA.

The Fund aims to treat everyone fairly and openly. However the Fund can only pay compensation according to the Investor Compensation Scheme Regulations ([the Regulations](#)). By explaining how these rules generally operate, the Committee wishes to prevent any misunderstandings or unrealistic expectations about what it can do.

Purpose of the Scheme

The Fund is intended to promote confidence not only in licensed investment firms, but more importantly, in the financial system as a whole. It draws its justification from the fact that an investor is not generally in a position to make a comprehensive assessment of the risks affecting a licensed investment firm.

Firms covered by the Fund

The following firms are covered by the Fund:

- Firms licensed under the Investment Services Act, 1994 incorporated in Malta including their branches in the European Economic Area (“EEA”), if any. RTFX is thus a member of the Fund;
- Certain firms incorporated in EEA States which may join the Fund to supplement the cover available from the scheme operating in their home country in respect of investments made by their Malta offices;
- Certain firms incorporated outside the EEA in respect of investments taken by their Malta offices;

The Committee of the Fund can also advise you if a firm participates in the Scheme.

Limits applicable in the event of a claim

The Fund covers 90% of a firm’s net liability to an investor in respect of investments which qualify for compensation under the Investment Services Act subject to a maximum payment to any one person of €20,000.

A firm’s total liability to an investor is the aggregate of all accounts in the name of that investor in any currency, including the investor’s share in a joint account or a client account.

Joint accounts are divided equally between account holders where there is no indication of the share of each holder in the account. Each will be covered up to the limits described above.

In respect of investments held by a person acting as trustee or nominee for one or more persons, the investment making up the claim shall be deemed to belong to the beneficial owners equally unless there exists specific information which may otherwise determine the beneficial interests of such persons.

The following will be deducted from the amounts payable under the Scheme:

- payments received from investment compensation schemes elsewhere;
- payments from any insurance policy taken out by the claimant in respect of the investment;
- payments from the liquidator or receiver; and
- any amounts which had a right of set-off at the date of declaration.

Currencies covered by the Fund

The Fund covers investments in any currency.

Types of investments covered

Most types of investments are covered. Certain investments are not covered by the Fund, such as:-

- Investment by companies which are not permitted to draw up abridged balance sheets in terms of the Companies Act.
- Amounts invested by another firm for its own account.
- Investments arising out of transactions in connection with which there has been a conviction under the anti money-laundering legislation.
- Investments by financial institutions.
- Investments by insurance undertakings.
- Investments by Governments, Central Administrative Authorities or Local or Regional Governments or Authorities.
- Investments by Collective Investment Undertakings.
- Investments by Pension and Retirement Funds.
- Investments by a Credit Institution's own directors, managers, members personally liable, holders of at least 5% of the institution's capital, persons responsible for carrying out the statutory audits of the institution's accounting documents and depositors of similar status in other companies in the same group.
- Investments by close relatives and third parties acting for the depositors referred to in the paragraph above.
- Investments by other companies in the same group which provide consolidated accounts.
- Investments which do not disclose the investor's identity.
- Investments for which the investor has, on an individual basis, obtained from the same institution rates and financial concessions which have helped to aggravate its financial situation.
- Debt securities issued by the same institution and liabilities arising out of own acceptances and promissory notes.
- Investments held by nominees, trustees or other third parties acting on behalf of or in the interest of the persons referred to in this schedule to the extent of the funds held in such capacity.

Activation of the Fund

The Fund is activated upon the occurrence of one of the criteria prescribed in regulation 13 of the Investor Compensation Scheme Regulations. The most likely of these events is a Court's decision to put the investment firm into liquidation. The Fund will also be activated if the MFSA, as regulator of investment firms in Malta, determines that a firm has been unable to meet its obligations arising from claims by its investors for reasons which are directly related to its financial circumstances and has no current prospect of being able to do so.

Points to remember

You cannot claim compensation on the basis of:

- Market movements resulting in a decrease in the value of an investment.
- Poor investment advice.
- A failed investment that had been duly executed
- A failure of a collective investment scheme.
- Inflation.
- A decrease in interest rates.

Covered Clients

RTFX's Clients are all covered by the Fund unless they fall within the following categories:

1. The following categories of Institutional and Professional Investors
 - a. Investment Firms
 - b. Legal entities associated with RTFX and, in general, belonging to the same group of companies
 - c. Banks

- d. Cooperative Credit Institutions
 - e. Insurance Companies
 - f. Collective Investment Organisations in Transferable Securities and their Management Companies
 - g. Social Insurance Institutions and Funds
 - h. Investors characterised by the Company as Professionals
2. States and Supranational Organisations
 3. Central, Federal, Confederate, Regional and Local Administrative Authorities
 4. Enterprises associated with RTFX
 5. All staff of RTFX inclusive of Managerial and Administration staff
 6. Shareholders of RTFX whose participation directly or indirectly in the capital of RTFX amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of RTFX, as well as persons responsible for the carrying out of the financial audit of RTFX as provided by the Law, such as qualified auditors
 7. Investors having an enterprise connected with RTFX and in general of the group of companies to which RTFX belongs, positions or duties corresponding to the ones listed in paragraphs 5 and 6 above
 8. Second-degree relatives and spouses of the persons listed in paragraphs 5, 6 and 7 as well as third parties acting for the account of these persons
 9. Apart from investors convicted of a criminal offence pursuant to the Prevention of Money Laundering and Funding of Terrorism Regulations 2008, investor-clients of RTFX responsible for facts pertaining to RTFX that has caused its financial difficulties or has contributed to the worsening of its financial situation or which have profited from these facts
 10. Investors in the form of a company which due to its size is not allowed to draw a summary balance sheet in accordance with the Companies Law or a corresponding law of a Member State.

Frequently Asked Questions

How do you decide whether the losses I am claiming are covered?

We have to check carefully every claim for compensation and ensure that every claim is covered by the regulations before we can deal with it. If you are not eligible for compensation under the regulations, we will write to you and explain why.

Does the scheme cover losses caused by bad advice?

The scheme does not cover losses caused by bad advice or poor investment management.

Does compensation cover investment losses arising from market fluctuations?

The Scheme does not compensate losses caused by market fluctuations in the value of investments. So there is no cover for a downturn in the market, nor for any losses caused by inflation. These economic effects are beyond the control of the intermediaries.

Will I be covered if I did business through the Internet?

Business carried on through the Internet may only be covered if the firm you are dealing with is a licensed intermediary.

Does the Scheme cover companies as well as individuals?

Most investors and types of investments are covered. There are however some investors who might not be able to claim. Companies which are permitted to draw up abridged balance sheets in terms of the Companies Act are also covered by the Scheme.

Do you cover bank deposits?

Bank deposits are not legally defined as investments and are not covered by this Scheme. They may however be eligible to protection under a different arrangement, namely the Depositor Guarantee Scheme.

Will I be covered if a licensed investment firm refuses to hand over any monies because of some dispute with me?

Compensation is not triggered if a licensed firm could hand over the monies to you but is refusing to do so for reasons unconnected with its adverse financial circumstances. So the Investor Compensation Scheme will not cover such claims.

What happens if the licensed investment firm holds specific investment instruments or other assets which belong to me?

The Scheme covers not only the repayment of monies owed to you. It is also required to return any investments or assets which are held on your behalf by a licensed firm, or, where this is not possible, to pay compensation on the basis of their value.

How does the Scheme obtain its funds to pay compensation to investors?

The Investor Compensation Scheme is not an insurance company. It is not funded by the Government or by the taxpayer. The Scheme is funded by contributions from most intermediaries which are licensed by law to provide investment services. These contributions take the form of a fixed amount which is paid annually and a variable provision which accumulates each year and is payable on call, in case of need.

What if I have more than one claim?

An investor can only submit one claim for all his investments taken in aggregate against a failed licensed firm.

What if I have a joint account or a trust, or my holdings are held under nominee?

Joint investment accounts are divided equally between account holders where there is no indication of the share of each holder in the account. Each will be covered up to the limits prescribed in the Regulations, subject to eligibility.

In respect of investments held by a person acting as trustee or nominee for one or more beneficial owners, the investment making up the claim shall be deemed to belong to such beneficial owners equally unless there exists specific information which may otherwise determine the beneficial interests of such persons.

How to claim

You must fill in an Application Form if you want to claim compensation. The Application Form tells the Committee:

- The full name of the licensed investment intermediary.
- The type of investment you made.
- When, why and how much you invested.
- Why you believe you have a claim.
- We will need to see evidence the firm has given you about your investments. The more information you give us, the easier it will be to deal with your claim.

A specimen application form will be available as soon as the need arises.

Time for making a claim

The Fund has a duty to advise the public of any determination that has a bearing on the ability of a licensed firm to meet its obligations to investors. Therefore you should make your compensation claim as soon as possible after you become aware that a licensed firm has been determined to be in default. The Regulations set no time limits for making a claim for compensation to the Fund. However the Committee will normally abide by legal time limits, such as those that a Court would apply, although in certain circumstances they may disregard such limits.

Processing the claim

After the Committee has examined your claim and examined all the facts and figures, they will inform you whether, and if so, the amount of compensation which the Fund can pay you. The Committee aims to pay compensation for verified claims within three months from a determination.

More Information

The Fund is managed and administered by a Management Committee appointed by the MFSA.

The Management Committee is made up of the following members:

Chairman

Dr Anton Felice

Members

Benny Borg Bonello

George F. Farrugia

Kenneth Farrugia

Prof. Andrew Muscat

Renè Saliba

Dr Massimo Vella

Secretary

Geoffrey Bezzina

(The secretary is not a member of the Management Committee)

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