

# The Chartered Certified Accountants' Financial Services Compensation Regulations 1996



## Scope and status

This factsheet sets out the Chartered Certified Accountants' Financial Services Compensation Regulations 1996. These are reproduced here for reference purposes only.

This document has no regulatory status. It is issued for guidance purposes only. Nothing contained in this document should be taken as constituting the amendment or adaptation of the *ACCA Rulebook*. In the event of any conflict between the content of this document and the content of the *ACCA Rulebook*, the latter shall at all times take precedence.

## The Chartered Certified Accountants' Financial Services Compensation Regulations 1996

### Amended January 2000

The Council of the Association of Chartered Certified Accountants ("Association"), in exercise of the powers conferred on it by paragraphs (t) and (u) of Article 4 of the Royal Charter of 25 November 1974, by paragraph (f) of bye-law 6 of the Association's bye-laws, and all other powers enabling it, hereby makes the following regulations:

## PART 1: PRELIMINARY

### 1. Introductory

(1) These regulations may be cited as The Chartered Certified Accountants' Financial Services Compensation Regulations 1996.

(2) These regulations as amended as set out herein have effect from 1 January 2000.

(3) Both the scheme and the fund established by the former regulations are to continue to exist and after 1 January 2000 are to be governed by these regulations.

(4) A default within the meaning of these regulations shall be administered in accordance with these regulations, or the former regulations as in force at the time of the default.

### 2. Interpretation

(1) These regulations are to be interpreted in accordance with the Glossary at the end of these regulations.

(2) Any other expressions defined in the Act or in the Interpretation Act 1978 of the United Kingdom have the same meaning in these regulations.

### 3. The Compensation Committee

(1) The Compensation Committee of the Council of the Association continues to be responsible for the administration of the Scheme in accordance with these regulations.

(2) Annex 1 deals with the position and powers of the Compensation Committee and various related matters.

(3) For the avoidance of doubt, the Compensation Committee acts at all times for the Council and the Association and therefore references to its rights and obligations are references to rights and obligations of the Association.

### 4. Application

These regulations shall apply to all participant firms and to all former participant firms to the extent and for the periods specified in the regulations.

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## **PART 2: COMPENSATION OF UNPAID INVESTORS**

### **5. Declaration of default**

(1) The Compensation Committee may determine a participant firm to be "in default" where it appears to the Compensation Committee that the firm is unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred in connection with its investment business and that, as a result, compensation is likely to be payable under these regulations.

(2) The Compensation Committee may postpone determining a participant firm to be "in default" where it proposes to consult with other regulatory authorities or where it appears to it that:

(a) the firm is likely to enter into a formal process on the ground of insolvency; or

(b) arrangements are proposed or are in train to ensure the survival of the whole or part of the undertaking of the firm as a going concern or to transfer the whole or part of its business to another person.

(3) The Compensation Committee is to determine a date as the quantification date, and this date may be either on, before or after the date it makes the determination.

### **6. Payment of compensation**

(1) The Compensation Committee is responsible for paying compensation to investors in accordance with these regulations.

(2) The Compensation Committee may pay compensation where it is satisfied, on the basis of evidence provided by an investor or which is available to it from other sources, that:

(a) an eligible investor has duly applied for compensation;

(b) the investor has a claim against a participant firm in default which is both a scheme business claim and a compensatable claim;

(c) the participant firm is unable or likely to be unable to meet the claim within a reasonable period; and

(d) the investor has agreed, to the satisfaction of the Compensation Committee, that the whole or any part of his rights in the claim and, if the Compensation Committee so determines, any rights of his in a claim against any other person which relate to the subject matter of the claim, should be assigned and passed to the Compensation Committee.

(3) In reaching an agreement with the investor under regulation 6(2)(d), the Compensation Committee may place any restriction which it deems appropriate on its ability to exercise the rights which the investor has agreed should pass to it.

(4) An application for compensation is to be rejected if:

(a) it is not duly made until more than six months after the investor became aware, or ought reasonably to have become aware, that the Compensation Committee had determined the firm to be in default; or

(b) the investor has any responsibility for, or has directly or indirectly profited from, events relating to the firm or its business which gave rise to the firm's financial difficulties, unless the Compensation Committee determines that, by reason of exceptional circumstances, the application ought to be allowed in whole or in part.

(5) An application may also be rejected in whole or in part if it is found to contain any inaccuracy or omission, unless this is clearly immaterial or is shown by the investor to be wholly innocent.

(6) The Compensation Committee may postpone paying compensation where it considers that the investor should first exhaust his rights against the firm or any third party, or make and pursue an application for compensation to any other person.

(7) For the purposes of these regulations, the Compensation Committee is to rely, to the extent relevant, on any determination by a court of competent jurisdiction or by a liquidator or trustee in bankruptcy or on the certification of any net sum due which is made in default proceedings of a recognised exchange or clearing house and the Compensation Committee may also rely on the

certification of any net sum due which is made in default proceedings of any other exchange or clearing house.

Where an investor's claim relates to the fact that he:

- (a) while eligible or reasonably likely to become eligible to be a member of an occupational pension scheme, instead become a member of a personal pension scheme or entered into a retirement annuity contract; or
- (b) has ceased to be a member of, or to pay contributions to, an occupational pension scheme and has instead become a member of a personal pension scheme or entered into a retirement annuity contract; or
- (c) has transferred to a personal pension scheme accrued rights of his under an occupational pension scheme which is not a defined contribution (money purchase) scheme; or
- (d) has ceased to be a member of an occupational pension scheme and has instead (by virtue of such a provision as is mentioned in section 591(2)(g) of the Income and Corporation Taxes Act 1988) entered into arrangements for securing relevant benefits by means of an annuity contract,

the Compensation Committee shall follow the Specification of Standards and Procedures issued by the Board in October 1994 as supplemented and modified by the guidance issued by the Board in November 1996 (the "Specification") in assessing whether a firm has complied with the relevant regulatory requirements and, if not, whether the non-compliance caused loss to the investor as well as in calculating the compensation due (and in this connection the Compensation Committee may rely on calculations made by the Personal Investment Authority Ltd or its successor), unless the Compensation Committee considers that departure from the Specification is essential in order to provide fair compensation to the investor.

(8) The Compensation Committee may, after consultation with the investor, withdraw any offer of compensation to an investor if the offer is not accepted or disputed within 90 days of the date on which the offer is made.

(9) Notwithstanding regulation 6(6), the Compensation Committee may pay compensation to an investor in respect of property held by the firm in circumstances where a liquidator, administrator, trustee in bankruptcy or

examiner, or supervisor of an individual or company voluntary arrangement has been appointed to the firm, and:

- (a) the Compensation Committee considers it likely that the liquidator, administrator, trustee in bankruptcy, or supervisor of an individual or company voluntary arrangement would, in due course, distribute the property to the investor;
- (b) the investor has agreed to be compensated for the property on the basis of the valuation provided by the Compensation Committee; and
- (c) the investor has agreed, to the satisfaction of the Compensation Committee, that his rights to the property in respect of which compensation is payable under this regulation should pass to it.

#### **7. Scheme business claims**

(1) Subject to regulations (7)(2) to (7)(4), a scheme business claim is a claim which relates to a liability owed by the firm and which is incurred by it in connection with UK scheme business done by it while it was a participant firm and with the investor or as agent on his behalf.

(2)(a) Subject to regulations 7(2)(b) to (d), "scheme business" means investment business carried on by any person after his participation date and in respect of which he is an authorised person.

(b) The business of an appointed representative for which his principal has accepted responsibility is to be treated, for the period for which responsibility is accepted, as the business of the principal.

(c) Where a person carried on business falling within paragraph 14 of Schedule 1 to the Act (management of investments), or is treated as so doing by section 191 (pension fund management), that business is not scheme business if the assets managed are held, or to be held, under and for the purposes of an occupational pension scheme.

(d) Business is scheme business if, and only if, it is business of a participant firm:

(i) with an investor in the United Kingdom; or  
(ii) with an investor overseas, if that business can properly be regarded as done directly with an office in the United Kingdom of the participant firm or an appointed representative.

(3) Where a claim relates to property which was held by the firm or by the firm's appointed representative before its participation date in connection with business which, had the Act then been in force, would have been UK scheme business of the firm on that date, it may be treated as a scheme business claim notwithstanding the fact that the investor might be unable to show that the loss the subject of the claim occurred after the firm's participation date if:

(a) the investor is able to show that the loss the subject of the claim occurred on or after 18 December 1986; and  
(b) the firm was reasonably believed to continue to hold the property in question in connection with UK scheme business of the firm as at its participation date.

(4) The following are not scheme business claims:

(a) a claim on which compensation is payable under the LAUTRO or PIA indemnity scheme or any successor scheme;

(b) a claim relating to loss arising as a result of a regulated insurance company being unable to meet its liabilities under a contract of insurance; and

(c) a claim on which compensation is payable under the Investors Compensation Scheme.

#### 8. Compensatable claims

(1) The basic compensatable claims are claims for property held and claims arising from transactions which remain uncompleted at the quantification date, and an application for compensation relating to any other claim is to be met only if and to the extent that the Compensation Committee considers that this is essential in order to provide fair compensation to the investor.

(2) Subject to regulation 8(3), any claim is not a compensatable claim unless it relates to a liability which has been established before a court of competent

jurisdiction or which the Compensation Committee is satisfied would be established if proceedings were brought before such a court; and a claim is not a compensatable claim if, at the date of default or of the investor's written intimation of his claim, if earlier:

(a) the liability has been extinguished by the operation of law, or

(b) the Compensation Committee is satisfied that the liability would have been defeated at that date by a defence of limitation.

(3) Notwithstanding anything in regulation 8(2), the Compensation Committee may disregard a defence of limitation for the purpose of assessing whether an investor has a compensatable claim where it considers it would be reasonable to do so.

(4) Where all or part of a claim relates to or depends on:

(a) failure of investment performance to match a guarantee given or representation made (whether in writing or not),

(b) a contractual obligation or promise to pay (including a cheque or other negotiable instrument) which the Compensation Committee considers to have been undertaken without full consideration passing to the firm or in anticipation of possible insolvency, or

(c) the mere fluctuation in the value of an investment; that claim, or, in the case of part of a claim, that part of the claim (but only that part) is not in any event a compensatable claim.

#### 9. Varieties of claims

(1) Where a person numbers among his claims a claim as the personal representative of another, he is to be treated in respect of that claim as if he were standing in the shoes of the deceased and accordingly a different person.

(2) Where a person numbers among his claims a claim as trustee, he is to be treated in respect of that claim as if the claim relating to the trust was a claim of a different person; but this is subject to regulations 10(3) and 12.

(3) Where two or more persons have a joint beneficial claim, then, if they are carrying on business together in

partnership, the claim is treated as a claim of the partnership, and in other cases each of those persons is taken to have a claim for his share, and, in the absence of satisfactory evidence as to their respective shares, is taken to be entitled to an equal share.

(4) Where an agent has a claim for one or more principals, the principal or principals are to be treated as having the claim, to the exclusion of the agent.

(5) Where any group of persons has a claim as trustees, they are to be treated as a single and continuing person distinct from the persons who may from time to time be the trustees, and where the same person has a claim as trustee for different trusts, these regulations apply as if the claims relating to each of the trusts were claims of different persons.

#### **10. Amount of the compensation sum**

(1) In principle, the amount payable by way of compensation is the amount of the investor's overall net claim against the firm in default as at the quantification date.

(2) The Compensation Committee is to adjust the amount of an investor's overall net claim against a firm to the extent that it appears to it that payment of the full amount would provide a benefit to the investor which is greater than the benefit which he might reasonably have expected or than the actual benefit available on similar investments made with other firms.

(3) Where a trustee has a claim, the Compensation Committee shall, where applicable, adjust the amount of the overall net claim so that it represents that part (but only that part) of the claim which, in the opinion of the Compensation Committee, is a claim for those beneficiaries who, had they been investors in their own right, would have been eligible investors for the purposes of these regulations; and the Compensation Committee shall endeavour to ensure, so far as it is reasonably able, that any amount paid to the trustee by way of compensation is for the benefit of those beneficiaries and does not exceed

the amount attributable to the loss suffered by those beneficiaries.

#### **11. Limits on the compensation sum**

(1) The maximum compensation sum payable to an investor on a default is £30,000 plus 90 per cent of the balance of his overall net claim up to a maximum of £50,000, on which £48,000 is the maximum compensation sum payable.

(2) There is also an overall limit on the amount which the Compensation Committee may determine to pay in any financial year by way of compensation sums to investors and interest on them. The overall limit is the amount determined by the Compensation Committee as an amount which may be expected not to cause the compensation costs of the year to exceed £3 million sterling.

#### **12. Limits on payment of compensation**

(1) Where an investor has a claim, and a trustee also has, in respect of the same default, a claim on the investor's behalf or in which the investor may have or may acquire an interest, the Compensation Committee shall endeavour to ensure, so far as it is reasonably able, that the total amount of compensation paid by the Compensation Committee to or for the benefit of the investor does not exceed the maximum compensation sum stated in regulation 11(1).

(2) Notwithstanding regulation 9(5), where a trustee has a claim against a participant firm as trustee for different trusts, or where trustees of different trusts each have a claim in respect of the same default, the Compensation Committee shall endeavour to ensure that no person who is or may be a beneficiary of more than one of the trusts benefits from the compensation paid by the Compensation Committee to a greater amount than the maximum compensation sums stated in regulation 11(1).

#### **13. Reduced or interim payments**

(1) Where the Compensation Committee is satisfied that in principle compensation is payable, but considers that immediate payment in full would not be prudent, having regard to other applications for compensation made or likely to be made, or to any uncertainty as to the amount of the investor's overall net claim, it may determine to pay an appropriate lesser sum in final settlement or to make a payment on account.

(2) A payment on account is, for the purposes of these regulations, to be treated as the payment of a compensation sum and does not inhibit the Compensation Committee from making a determination in respect of any balance in the same or in any later year.

(3) The Compensation Committee may also determine to make a payment on account or to pay a lesser sum where the investor has any prospect of recovery in respect of the claim from any third party or through an application for compensation to any other person.

(4) The Compensation Committee may determine to reduce the compensation which would otherwise be payable to an investor in circumstances where it is satisfied that:

(a) the investor is wholly or partly to blame for the loss which he has suffered; and

(b) it would be inequitable for the Compensation Committee not to take account of that fact.

#### **14. Interest on the compensation sum**

(1) The Compensation Committee is to pay interest to investors on compensation sums in such circumstances and in such amounts as it considers appropriate.

(2) Interest under this regulation is to be taken into account for the purposes of the limits contained in regulation 11(1).

(3) Where the Compensation Committee pays the compensation sum to a third party in accordance with regulation 16, interest payable under regulation 14(1) is to be paid to that party.

#### **15. Recoveries**

(1) The Compensation Committee is responsible for making such recoveries as it reasonably can through the rights assigned to it by investors in accordance with regulation 6(2)(d).

(2) Any amount recovered by the Compensation Committee pursuant to the rights assigned to it by investors is to be paid into the fund, up to the amount of the compensation sum paid to the investor, interest on it which the Compensation Committee determines to pay, and the costs of recovery. Any balance is to be paid to the investor, save where regulation 6(9) applies, where the balance is to be retained by the Compensation Committee.

(3) Subject to regulation 15(4) the Compensation Committee shall endeavour to ensure that no investor shall suffer disadvantage arising solely from his prompt acceptance of the Compensation Committee's offer of compensation, compared with what might have been the position had he delayed his acceptance; and, notwithstanding regulation 15(2), the Compensation Committee shall pay to the investor any amount received by it by virtue of arrangements made pursuant to this regulation where it considers that such disadvantage would otherwise occur.

(4) Regulation 15(3) shall not apply in respect of compensation paid by the Compensation Committee in accordance with regulation 6(9).

#### **16. Payment of compensation to third parties on the investor's account**

(1) Where an investor's claim relates to liability arising out of the circumstances listed in regulation 6(9), the Compensation Committee shall, save in exceptional circumstances, pay any compensation:

(a) to the trustee of an occupational pension scheme and not to the investor, and/or

(b) to a personal pension or other product provider and not to the investor.

(2) Where regulation 16(1) applies, the investor shall not be entitled to receive compensation other than by payment by the Compensation Committee to the trustee of an occupational pension scheme and/or to a personal pension or other product provider, as the Compensation Committee sees fit.

## **PART 3: LEVIES**

### **17. Levy procedure**

Annex 2 sets out the way in which costs are to be allocated for levy purposes, and levies are to be made to finance the scheme.

## **PART 4: WINDING-UP**

### **18. Winding-up**

If the scheme is wound up, the fund shall be applied in the following order of priority:

- (1) the payment of all outstanding management costs;
- (2) the payment of all outstanding compensation costs;
- (3) the payment of the costs of winding-up the scheme;
- (4) any balance of the fund shall be retained by the Association as part of its general assets.

## **Annex 1 – The Compensation Committee**

### **1. Powers of management**

- (1) The Council is to hold, manage and apply the fund in accordance with these regulations, although the express powers given do not restrict its general powers of management.
- (2) The assets of the fund are to be invested from time to time as the Council directs, having regard to the need for prudence.
- (3) The Council may borrow money or otherwise incur indebtedness for the purposes of the scheme, in any way and on any terms it thinks fit.

(4) The Council may take out policies of insurance for the purposes of the scheme.

### **2. Payments into the fund**

There are to be paid into the fund:

- (a) money obtained by levying contributions;
- (b) money borrowed by the Council for the purposes of the scheme;
- (c) money received as income from, or the proceeds of sale of, any investments;
- (d) money received under any policy of insurance taken out for the purposes of the scheme; and
- (e) any other money required by these regulations to be paid into the fund or received by the Compensation Committee or Council for the purposes of the scheme.

### **3. Payments out of the fund**

There may be paid out of the fund:

- (a) money required by the Council for the payment of compensation sums to investors, together with interest payable on such sums in accordance with these regulations and any other sums which would fall to be treated as compensation costs;
- (b) money required for the arrangement, service or repayment of loans obtained by the Council, or for the discharge of other indebtedness incurred, for the purposes of the scheme;
- (c) premiums on policies of insurance taken out by the Council for the purposes of the scheme;
- (d) any expenses of establishing the scheme or incurred by the Council in its administration; and
- (e) money received by way of recovery and payable to an investor under the regulations.

### **4. Further powers**

(1) The Council may from time to time publish guidance to investors, in such manner as it thinks fit, on the operation of the scheme.

(2) The Compensation Committee may, in accordance with the regulations, determine whether any business carried on by a firm is to be regarded as scheme business.

(3) The Compensation Committee may agree with an investor to pay the reasonable costs of the investor bringing or continuing insolvency or similar proceedings against a firm (whether those proceedings were commenced before or after a declaration of default by the Compensation Committee) in circumstances where the Compensation Committee is satisfied that such action by the investor is or would be beneficial to the discharge of its functions under these regulations; and any such payments shall constitute management costs of the year in which the costs are incurred.

#### **5. Co-operation with Compensation Committee**

(1) A participant firm is to co-operate with the Compensation Committee in making available all information, books and documents, and is otherwise to render all such assistance, as is necessary to assist the Compensation Committee to perform its functions under these regulations; and a participant firm shall comply with the obligations contained in this sub-paragraph for a period of five years after it ceases to be a participant firm.

(2) Where an administration, winding up or bankruptcy order has been made in relation to a participant firm, the requirement imposed by the preceding sub-paragraph applies to its administrator, liquidator or trustee in bankruptcy or examiner and where the firm has made any voluntary arrangements, it applies also to the supervisor of those arrangements.

#### **6. Indemnity**

(1) Neither the Association nor any of its officers or servants or agents nor any members of any committee of

Council shall be liable in damages or otherwise for anything done or omitted to be done in the discharge or purported discharge of any function under or connected with these regulations unless the act or omission is shown to have been in bad faith.

(2) The Association and any member, officer or servant of the Association shall be indemnified out of the fund against any liability for anything done or omitted in the discharge or purported discharge of the functions of the Compensation Committee, the Council or the Association under these regulations, unless that person is shown to have acted in bad faith in respect of that act or omission; and any amounts payable by virtue of this regulation are to be treated as management costs for the financial year in which they are paid.

#### **7. Annual Report**

(1) The Compensation Committee is to make and publish an annual report to the Council of the Association on the discharge of its functions and on the operation of the scheme, covering each successive financial year, and made within four months of the end of the year reported on.

(2) The annual report is to give details of the exercise by the Compensation Committee of its powers of management and is to include a statement of the assets and liabilities of the fund at the end of the financial year.

(3) The Council shall cause records to be kept sufficient to show and explain the transactions of the scheme, such as to:

- (i) disclose with reasonable accuracy, at any time, the financial position of the scheme at that time; and
- (ii) enable the Council to make the reports required by this regulation.

Such records shall be kept for a period of ten years from the end of the financial year of the scheme to which they relate.

#### **Annex 2 – Costs and levies**

### **1. Firms to bear costs of the scheme**

Compensation costs and management costs net of any associated recoveries and proceeds of policies of insurance are to be borne by firms which are or have at any time been participant firms. This is to be achieved by the Compensation Committee making levies on such firms in accordance with this Annex. The Compensation Committee may also determine to levy firms with the intention of building up a fund (the "fund") against which future costs of the scheme can be defrayed.

### **2. Calculation of costs**

At such times as the Compensation Committee shall decide, the compensation costs of a year and management costs of a year shall be calculated, including in any such calculation an estimate of compensation costs not yet incurred but which it is determined are likely to be incurred in respect of defaults already declared in the year in question. The Compensation Committee shall at such times determine the aggregate amount (if any) which shall be levied on firms, which may be in an amount less than, equal to or in excess of such costs as calculated.

### **3. Levies**

Where the Compensation Committee has determined to levy firms in respect of compensation costs of a year and management costs of a year, it shall levy those firms which were participant firms during all or part of the financial year in question and such other firms which are or have at any time been participant firms as the Compensation Committee may in its absolute discretion determine. The amount of a firm's levy shall be such proportion of the aggregate levy to be borne by all firms as the Compensation Committee shall in its absolute discretion determine, taking account (without limitation) of such factors as the amount of the firm's annual investment business certificate fee and its category of authorisation.

### **4. Levy adjustments**

The notice by which a levy is made on a firm may provide for that levy to be increased by one or more specified amounts if the levy has not been paid by one or more specified future dates and by the costs of collecting the levy from the firm concerned.

### **5. Basic, interim and further levies**

The Compensation Committee may at the beginning of the financial year make a basic levy on participant firms in such amount as it thinks fit, with a view to the amount levied covering the expected management costs of the year and any insurance premium payable in respect of that year and, if it so decides, contributing to the fund in such amount as the Compensation Committee considers appropriate.

The Compensation Committee may at any time determine that an interim levy be made and may determine to make further levies in respect of the costs of the scheme, such as where the estimate of the compensation costs of a year subsequently is found to have been inadequate or where for any other reason the initial amount levied in respect of any costs was insufficient.

### **6. General**

Amounts levied under the scheme are liabilities owed to the Association, and payment may be enforced by action at law by the Association.

### **Glossary**

In these regulations, unless the context otherwise requires, the following expressions have the following meanings:

the *Act* means the Financial Services Act 1986 of the United Kingdom;

*appointed representative* has the meaning given in section 44 of the Act;

*Association* means the Association of Chartered Certified Accountants;

*Board* means the Financial Services Authority (previously the Securities and Investments Board);

*bye-laws* means the bye-laws from time to time of the Association;

*claim* means a valid claim on a firm in default in respect of a civil liability owed by the firm;

*compensatable claim* has the meaning given by regulation 8;

*compensatable loss* has the meaning given in the Compensation Act;

*Compensation Committee* means the Committee of Council responsible for administering the scheme; or such other body to which Council may delegate such responsibilities; or the Council;

*compensation costs* means costs relating to payment of compensation on defaults, including:

- (a) compensation sums payable to investors;
- (b) interest payable to investors under these regulations;
- (c) costs (including internal and external legal and accountancy costs) of establishing claims and of exercising rights of recovery relating to defaults, and other similar costs;
- (d) any interest or other draw down costs incurred to enable compensation costs to be met;

*compensation costs of a year* means compensation costs incurred or estimated to be incurred by the scheme in respect of defaults declared in that financial year, adjusted for accruals, less net recoveries made or estimated to be made by the scheme in respect of those defaults and, to the extent determined by the Compensation Committee, such costs so adjusted and net of related recoveries incurred in respect of defaults declared in any previous financial year;

*compensation sum* means the amount which the Compensation Committee determines to pay by way of compensation on a claim;

*Council* means the Council of the Association;

*derivative* means an investment falling within any of paragraphs 7, 8 or 9 of Schedule 1 to the Act;

*eligible investor* means an investor who was at any material time:

- (a) a private customer (but a private customer is not an eligible investor where the firm has properly treated him as a non-private customer and has informed him in writing that he will not be entitled to apply for compensation to the Compensation Committee); or
- (b) a trustee (including for this purpose a nominee), but not a unit trust trustee

and *eligible investor* includes the personal representatives of an investor who, but for his death, would have satisfied paragraph (a), but does not include a person to whom an eligible investor has assigned part or all of his claim against a participant firm;

*excluded investor* has the meaning given in the Compensation Act;

*financial year* means a financial year of the Scheme, beginning with 1 January and ending with 31 December in each year;

*firm* includes an individual, partnership and body corporate and, where more than one firm carries on business in succession, each of those firms;

*former regulations* means The Chartered Association of Certified Accountants' Compensation Regulations 1988;

*fund* means the fund established by the former regulations and governed by these regulations in accordance with regulation 1(3);

*insurance costs* means premiums on policies of insurance taken out for the purposes of the scheme and related costs;

*investment business* has the meaning given by section 1(2) of the Act;

*investment business certificate* means a certificate issued by the Association pursuant to Section 15 of the Act;

*Investors Compensation Scheme* means the Financial Services (Compensation of Investors) Rules 1994 made by the Board, and any rules or regulations amending or replacing them;

*LAUTRO* means LAUTRO Ltd;

*management costs* means costs which may be charged to the scheme and which are not compensation costs;

*management costs of a year* means management costs incurred by the scheme in respect of the financial year concerned;

*net loss* has the meaning given in the Compensation Act;

*net recoveries* means recoveries made on rights transferred by investors, after return to the investor of any balance payable under these regulations;

*occupational pension scheme* means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employment so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

*overall net claim*, in relation to an investor, means the aggregate of that investor's claims against a participant firm which are both compensatable claims and scheme business claims, less the amount of any liability which the firm may set off against any of those claims and adjusted when required by these regulations;

*participant firm* means every firm which holds a current valid investment business certificate (and a person is also deemed to be a participant firm for the purposes of

compensation in respect of liabilities to investors incurred while that person was a participant firm);

*participation date* in relation to a firm means 1 November 1988 or, if later, the date on which the firm was first issued with an investment business certificate;

*personal pension scheme* means a scheme whose sole purpose is the provision of annuities, income withdrawals or lump sums under arrangements made by individuals in accordance with the scheme;

*PIA* means the Personal Investment Authority Ltd;

*private customer* has the meaning ascribed to it by the Financial Services Core Glossary issued by the Board as amended from time to time;

*property claim* means a claim of a proprietary nature;

*property held by the firm* includes property in the possession, custody or control of the firm and "hold" in this context is to be construed accordingly;

*quantification date* means the date determined by the Compensation Committee to be the date as at which claims are to be quantified;

*relevant benefits* means any pension, lump sum, gratuity, or other like benefit given or to be given on retirement or death, or in anticipation of retirement, or, in connection with past service, after retirement or death, or to be given on or in anticipation of or in connection with any change in the nature of the service of the employee in question, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a person occurring during his service or of his death by accident so occurring and for no other reason;

*retirement annuity contract* means a contract made before 1 July 1988 and approved by the Commissioners of the Inland Revenue under or by virtue of any provision of Chapter III of Part XIV of the Taxes Act 1988 of the United Kingdom;

*scheme* means the compensation scheme established by the former regulations and governed by these regulations in accordance with regulation 1(3);

*scheme business claim* means a scheme business claim within the meanings given by regulation 7;

*these regulations or the regulations* means the regulations including the Annexes and this Glossary;

*United Kingdom* means the United Kingdom of Great Britain and Northern Ireland.

Issued: January 2006