

**MEMO# 34058**

March 5, 2022

# **UK FCA Discussion Paper on Financial Services Compensation Scheme - ICI Global Response**

[34058]

March 4, 2022

TO: Global Regulated Funds Committee  
Global UK Financial Services Compensation Scheme Working Group  
UK-EU Cross Border Task Force RE: UK FCA Discussion Paper on Financial Services Compensation Scheme - ICI Global Response

As previously advised,[\[1\]](#) on 6 December 2021 the UK Financial Conduct Authority (FCA) published a discussion paper (DP) on the UK Financial Services Compensation Scheme. Attached is ICI Global's submitted response to the DP.

## **ICI Global Response to the Discussion Paper**

Our response to the DP provides recommendations on the application of the Collective Investment Scheme (CIS) look through provisions of the FSCS in response to Question 11 in the DP. We urge the FCA to limit the scope of the CIS look through to just United Kingdom (UK) domiciled investment funds ("overseas funds".) We argue that the costs resulting from the application of the look through to funds domiciled outside the UK are not commensurate to investor protection benefits, particularly given other mitigating factors. Furthermore, the scope of the look through reduces the UK's competitiveness as both an investment fund domicile and an investment management centre.

In our letter, we note that the tenuous circumstances in which a claim against a delegated investment manager (DIM) could possibly be brought. We note that these circumstances, coupled with the existing oversight of fund operators, investment fund managers (IFM) and/or DIMs, and the prudential tools they use to cover operational risks, do not appear to justify FSCS coverage of DIMs of overseas funds. The absence of a territorial scope limitation for such claims does not, in our view, represent a reasonable application of the "polluter pays" principle that is enshrined in statutory provisions covering the FSCS.[\[2\]](#) Furthermore, it penalises DIMs of overseas funds by imposing a disproportionate levy that neither IFMs of overseas funds nor DIMs located in other jurisdictions are subject. The resulting costs of the current CIS look through are not commensurate to investor protection benefits and create an incentive to undertake delegated investment management outside

the UK.

In our letter, we set out the merits of clarifying for UK investors - who are most likely to be aware of the FSCS - whether they are covered by the FSCS or another compensation scheme. We recommend that the FCA introduces a requirement for the absence or existence of compensation scheme coverage, including overseas schemes, to be disclosed to UK investors at the point of subscription.

## **Next Steps**

The FCA has said that it will consider feedback on the DP and publish a Feedback Statement during 2022, which will outline any further steps it intends to take. The FCA also plans to engage with stakeholders directly during the first quarter of 2022, once it has had the opportunity to hear stakeholders' initial views.

Giles Swan  
Director of Global Funds Policy  
ICI Global

## **endnotes**

[1] See ICI Memorandum 34017, RE: UK FCA Discussion Paper on Financial Services Compensation Scheme, Dated 28 January 2022, available at <https://www.ici.org/memo34017>

[2] Section 213(5), Financial Services and Markets Act 2000, requires the FCA to consider the desirability of ensuring that FSCS levies imposed on a class of firms are commensurate with the value of claims made on that class.