

# Issues for Charities to be aware of in relation to the Financial Services Compensation Scheme

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Charities are not specifically referred to in the rules that determine whether an organisation or individual will be eligible for compensation under the Financial Services Compensation Scheme ("FSCS"). The eligibility of a charity for compensation under the FSCS will depend on an organisation's structure and legal personality.

Most charities will be constituted either as an unincorporated association or as a limited company. If the charity is constituted as an unincorporated association it will be eligible to claim for compensation unless it is determined to be a 'large mutual association' which is defined within the Compensation section of the Financial Services Authority's Handbook at COMP 4.2.2(13) as a mutual association or unincorporated association with net assets of more than £1.4m (or its equivalent in any other currency at the relevant time).

If a charity is constituted as a limited company it will only be eligible for compensation if it qualifies as a 'small company' according to article 255 of the Companies (Northern Ireland) Order 1986 if a company's financial year end commences before 6 April 2008 which specifies certain criteria relating to the turnover, balance sheet total and number of employees of a company. For a company to qualify as a 'small company' if its financial year commences after 6 April 2008 section 382 of the Companies Act 2006 applies. This means that a company will qualify as a 'small company' if it fulfils two of the following three criteria:

1. Turnover of not more than £5.6m;
2. Balance sheet total of not more than £2.8m; or
3. Not more than 50 employees.

This may become an issue particularly for unincorporated associations with net assets of more than £1.4m especially if reserves have been built up over a period of time or if a charity which is constituted as a limited company operates on a significant scale with either a large turnover, balance sheet total or number of employees.

It should be noted that compensation will only apply when a bank or building society which is authorised by the Financial Services Authority, is unable to pay back the deposits. In the circumstances the FSCS can pay up to £50,000 or €50,000 (whichever is the higher) of each eligible depositor's claim, per authorised institution. However, until a claim is presented, a full assessment of the eligibility of the claim will not be carried out.

*Please note: The content of this article is for information purposes only and further advice should be sought from a professional advisor before any action is taken.*