

## IPReg Compensation Arrangements Rules 2024

These rules set out how *IPReg* will establish and maintain *compensation arrangements* which will need to be applied to the payment by *IPReg* of *discretionary grants*. These grants are made to compensate for losses causing hardship which are suffered as a result of dishonesty by a *registered person* (or former *registered person*) or its *employees* or *managers* (or former *employees* or *managers*). This is to the extent that such losses are not covered by a *registered person's* professional indemnity insurance or otherwise recoverable from another source.

### Interpretation – defined terms

1. In these rules, all defined terms set out in italics are as defined in the *IPReg* Glossary unless they are set out in the following table:

Term	Meaning
<i>authorised insurer</i>	a person who: <ul style="list-style-type: none"><li>(a) has permission under Part 4A of <i>FSMA</i> to effect or carry out contracts of insurance of a relevant class;</li><li>(b) carries on an insurance market activity, within the meaning of section 316(3) of <i>FSMA</i>;</li><li>(c) is a European Economic Area authorised body of the kind mentioned in paragraph 5(d) of Schedule 3 to <i>FSMA</i> to effect or carry out contracts of insurance of a relevant class; or</li><li>(d) does not fall within paragraph (a), (b), or (c) and who may lawfully effect or carry out contracts of insurance of a relevant class in an European Union member state</li></ul> where “relevant class” has the meaning set out in section 87(1B) of the Solicitors Act 1974 and provided that this definition must be read with section 22 of <i>FSMA</i> , any relevant order under that section and Schedule 2 to <i>FSMA</i> .
<i>compensation arrangements</i>	means an insurance policy or a compensation fund under which <i>discretionary grants</i> may be made by <i>IPReg</i> to compensate for losses causing hardship suffered by <i>persons</i> as a result of dishonesty, by a <i>registered person</i> (or former <i>registered person</i> ) or its <i>employees</i> or <i>managers</i> (or former <i>employees</i> or <i>managers</i> )

	to the extent that such losses are not covered by professional indemnity insurance or otherwise recoverable from another source.
<i>discretionary grant</i>	means a grant made by <i>IPReg</i> to compensate for losses causing hardship suffered by <i>persons</i> as a result of dishonesty, by a <i>registered person</i> (or former <i>registered person</i> ) or its <i>employees</i> or <i>managers</i> (or former <i>employees</i> or <i>managers</i> ) to the extent that such losses are not covered by professional indemnity insurance or otherwise recoverable from another source.
<i>FSMA</i>	means the Financial Services and Markets Act 2000.
<i>the Fund</i>	means a compensation fund <i>IPReg</i> has established and <i>prescribed</i> .

### ***Compensation arrangements***

2. *IPReg* will establish and maintain *compensation arrangements* which will be applied to the payment of *discretionary grants* it makes. *Compensation arrangements* may take the form of:
  - a. a compensation fund or funds; or
  - b. one or more policies of insurance with an *authorised insurer*.
3. The *compensation arrangements* made under 2 above provide for grants or other payments for the purposes of mitigating losses causing hardship suffered by *persons* as a result of:
  - a. dishonesty on the part of:
    - i. a *registered person* or former *registered person* in connection with their activities as a *registered person*, or
    - ii. a *manager* or *employee* (or former *manager* or *employee*) of a *registered person* or former *registered person* in connection with their activities as a *registered person*.
  - b. fraudulent or dishonest failure on the part of any *person* referred to in sub-paragraph 3a.i. to 3a.ii above to account for money received by them in connection with their activities as a *registered person* or former *registered person*.
4. Every *registered person* must make contributions to the *compensation arrangements*.
5. Any contribution made in accordance with 4 above is recoverable by *IPReg* as a debt due from the relevant *registered person* or former *registered person*.

## **Management of the Fund**

6. In the event that the *compensation arrangements* established pursuant to 2 above take the form of the *Fund*, *IPReg* is responsible for managing the *Fund*. *IPReg* may:
  - a. hold and distribute any monies raised for the purposes of the *Fund*;
  - b. invest the *Fund* in any investments in which trustees may invest under section 3 of the Trustee Act 2000 (general power of investment);
  - c. insure in relation to the *Fund*, and pay premiums in respect of such insurance from the *Fund*, for such purposes and on such terms as it considers appropriate; and
  - d. borrow for the purposes of the *Fund*, pay interest on any money so borrowed, repay any money so borrowed and use investments which form part of the *Fund* as security for such borrowing.

## **Discretionary grants and limits**

7. *IPReg* must make any *discretionary grant* in its absolute discretion.
8. *IPReg* may set out in guidance or in the *IPReg* Standard Operating Procedure the factors it will consider when exercising its discretion.
9. A *discretionary grant* will not exceed £30,000 per application granted.

## **Eligibility and applications**

10. Applications for *discretionary grants* may only be made by:
  - a. an individual *client*, or
  - b. a *company* with an annual turnover of £2,000,000 or less which is or was a *client*, collectively known as applicants.
11. An application for a *discretionary grant* must be made:
  - a. in such a form as *prescribed*; and
  - b. not more than one year after the applicant first knew, or with reasonable diligence should have known, about the dishonesty or failure to account.
12. An applicant must provide evidence (including any documents or other information that *IPReg* specifically requests in respect of the application) to satisfy *IPReg* that, in consequence of any of the matters referred to in 3 above, they have suffered loss causing hardship.
13. *IPReg* may take into account an applicant's failure to provide documents or other information or failure to co-operate with *IPReg* when determining the merits of an application for a

*discretionary grant.*

14. If *IPReg* refuses an application for a *discretionary grant*, whether in whole or in part, *IPReg* will inform the applicant in writing of its decision and the reasons for that decision within 28 days of the date of the decision. In the event *IPReg* makes a *discretionary grant*, *IPReg* will publish its decision to do so, taking into account any confidentiality or other considerations before doing so.

### **Other remedies and subrogations and decision making considerations**

15. *IPReg* may refuse a *discretionary grant* in respect of all or any part of a loss that is:
  - a. an insured risk; or
  - b. a risk that would have been insured if professional indemnity insurance had been in place as required by 3.10 of Chapter 2 of the Core Regulatory Framework; or
  - c. capable of being made good by any other means.
16. Before deciding whether to make a *discretionary grant*, *IPReg* will require an applicant to:
  - a. pursue any available civil remedy against the *registered person* or former *registered person* or *employee* or *manager* (or former *employee* or *manager*) who is the subject of the application to the extent that it is reasonably practicable to do so;
  - b. where possible, commence insolvency proceedings against that *registered person* or former *registered person* or *employee* or *manager* (or former *employee* or *manager*) (if they have not already been commenced);
  - c. make a formal complaint against that *registered person* or former *registered person* or *employee* or *manager* (or former *employee* or *manager*) to the police or other relevant agency; and
  - d. assist in the taking of any action against that *registered person* or former *registered person* or *employee* or *manager* (or former *employee* or *manager*) to the extent that it is reasonably practicable to do so.
17. If *IPReg* makes a *discretionary grant*, any rights or remedies of the recipient shall be subrogated to *IPReg* and, if required by *IPReg* (whether before or after the making of the grant), the applicant must:
  - i. provide evidence in any insolvency or winding-up of the *registered body* or former *registered body*;
  - ii. sue for recovery of the loss in their name but on behalf of *IPReg*; and
  - iii. comply with any other reasonable requirement for the purpose of giving effect to *IPReg's* rights.

### **Commencement provisions**

18. These rules shall apply from 1 May 2024 until further amended or substituted by further rules or regulations.

### **Supplemental notes**

19. These rules are made under section 83A of the *TMA*, section 275A of the *CDPA*, (pursuant to sections 184 and 185 of the *LSA*), an Order made under section 69 of the *LSA*, S.I. 2014 No. 3238, Part 5 of, and Schedule 11 to the *LSA* and section 21 of the *LSA*.