

# Investor Protection

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October 2008

N&G

PRIVATE CLIENT



## FINANCIAL SERVICES COMPENSATION SCHEME

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When the Financial Services and Markets Act 2000 came into force in December 2001, it introduced the FSCS at the same time. The FSCS replaced the various other protection schemes around at that time, including the Policyholders' Protection Scheme and Investors Compensation Scheme. The scheme covers deposits, investments, general & life insurance, and arranging and giving advice on mortgages. Further information is available on the FSCS website [www.fscs.org.uk](http://www.fscs.org.uk). The limits are as follows:-

- Deposits – covers deposits up to £50,000 for each eligible claim per banking group. This increased from the previous limit of £35,000 on 07 October 2008.
- Contracts of Insurance – covers long-term policies such as life assurance and pension policies up to 100% of the 1st £2,000 followed by 90% of the balance without limit.
- Compulsory insurance (e.g. car insurance) 100% without limit.
- Investment business – covers up to £48,000 (100% of the 1st £30,000 and 90% of the next £20,000).
- Mortgages - covers up to £48,000 (100% of the 1st £30,000 and 90% of the next £20,000) for mortgages arranged on or after 31 October 2004, when mortgage business first become regulated by the FSA.

### Can I make a claim for compensation to the FSCS at any time ?

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- No. The FSCS can only pay compensation to eligible claimants when an authorised company is unable or is unlikely to be able to pay claims against it. At this point the FSCS will generally declare the firm as being 'in default' and only after this time will they consider any claims. While a firm is still trading or still has sufficient assets to meet claims, the FSCS will not consider a claim and you will need to reclaim any money you are due from the firm itself or the firm's administrators. It is very important to bear this in mind.
- The FSCS calls itself 'a fund of last resort' for customers of authorised financial services firms and does not consider any claim until the authorised firm is 'in default'. This means that investors could in many cases get some of their investment back perhaps from the firm's administrators. If this is less than the compensation limit, they would then be able to claim for their loss from the FSCS once the firm was in default, but only up to the relevant limit.

### Examples of where the FSCS would not apply

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- You buy a suitable investment product which makes a loss due to a fall in market prices.
- Recovering losses above the FSCS limits.
- The firm is still trading.
- When the firm is not authorised by the Financial Services Authority (FSA).
- When the investor is classed as a 'large company'.

## Standard Life

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Standard Life is a strong financially secure business, as evidenced by their most recent business results for the first half of 2008. Group operating profits were up and their balance sheet is robust with strong solvency ratios. Their position has remained robust despite rough current market conditions.

Standard Life Assurance Limited (SLAL) is registered in Scotland (SC286833), Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH, and is authorised and regulated by the Financial Services Authority.

Standard Life International Limited (SLIL) is authorised and regulated by the Irish Financial Regulator, regulated by the Financial Services Authority for the conduct of UK business and regulated by the Jersey Financial Services Commission for the conduct of Jersey business. Standard Life International Limited is on the Financial Services Authority Register. The registration number is 446898. Standard Life International Limited is registered in Ireland (408507) at 90 St Stephen's Green, Dublin 2.

Even though Standard Life is a strong and financially secure company, we appreciate that clients want to have a clearer understanding of the security offered to investors in the unlikely event that their financial services provider becomes insolvent.

### How the FSCS define a "large company" and the implications

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The rules of the FSCS state that large companies cannot claim compensation from the scheme. Both Standard Life Assurance Ltd (SLAL) and Standard Life International Ltd (SLIL) will be classed as large companies. The significance is that large companies are excluded from claiming compensation from the FSCS.

Putting this into more practical terms, SLAL and SLIL like the vast majority of other life offices will be regarded as a large company. In general where a life office offers access to an external fund or deposits managed by another financial product provider, it is the life company which buys and holds the investment in their name. There are advantages in this method; mainly that the life company will usually get better terms on the purchase for the client. However, the 'large company' rule applies here and therefore life offices cannot claim compensation should the external fund manager default. However there are other specific levels of protection, please see the product specific information below.

## PROTECTION FOR STANDARD LIFE WRAP INVESTORS

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Am I protected if Standard Life Savings Limited defaulted ?

- Yes, your personal holdings (stocks, shares, mutual funds in Personal Portfolio, PEP and ISA accounts but not bank accounts) are held in nominee accounts and are completely separate from Standard Life Savings Limited's own assets.
- If a SIPP, onshore bond or offshore bond is held on the Wrap platform, please refer to the following specific product sections as the protection for these products will work in the same way as the 'non-Wrap' retail products.
- Where the holding is a mutual fund, the fund manager is required by the FSA to appoint a custodian or depositary who is responsible for the safekeeping of the assets. The depositary will normally appoint a custodian to act on their behalf. One of the custodian's primary functions is the safekeeping of securities and cash in deposit accounts, held in the name of the depositary. This has the effect of segregating the funds from the fund manager's own monies and effectively protects the client's investments should the fund manager become insolvent.
- By segregating and ring-fencing the assets, this should provide adequate protection from creditors if a fund manager defaults (whether it is a Standard Life or any external mutual fund manager).
- From a client's perspective this means that the only time they would need to look to the FSCS would be in the event of the fund manager acting dishonestly, fraudulently and/or negligently or if the client was mis-sold the product and suffered a loss (for example where the fund was a high risk investment and the client was identified as being risk averse). In the event that you would have to claim, the FSCS would cover any valid claim up to £48,000 (100% of the first £30,000 and 90% of the next £20,000) under the investment business part of the scheme.

### Cash held on the Standard Life wrap platform

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What happens if I have money in the Standard Life wrap cash account or Product cash accounts ?

- 'Uninvested money' in your wrap is held as client money. Standard Life Savings Limited (SLSL) holds your client money in accordance with the FSA's client money rules in client bank accounts which are segregated from SLSL's own money at FSA regulated banks, including Standard Life Bank which is a member of the Standard Life group.
- Your money is held with the money of other clients, collectively called 'pooled client money accounts'. This means that if you have cash in the wrap cash account and also accounts holding the cash elements of any PEP, ISA or Personal Portfolio, these will all form part of a pooled client bank account. By segregating the cash in the pooled client bank accounts from SLSL's own capital, this has the effect of fully protecting investors using the Standard Life platform should SLSL default.
- If any bank which holds such client money defaults, (including Standard Life Bank) the FSCS has specified that, subject to the general conditions of the compensation scheme, each client should benefit from FSCS protection on an individual basis in respect of their funds held in the client accounts.

## PROTECTION FOR SIPP INVESTORS

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How are my pension investments protected in the event of a product provider defaulting ?

- Firms selling financial products in the UK (including the Standard Life group) are authorised by the Financial Services Authority (FSA). In general, any private individual who invests in a pension such as a SIPP from Standard Life will be protected by the Financial Services Compensation Scheme (FSCS) should that authorised firm be unable to meet its liabilities. However the level of protection will depend on which underlying investments are chosen within the SIPP.
- Most SIPPs are trust based so the assets are owned by the trustees (usually as corporate trustee owned by the provider of the scheme, but sometimes it could be a corporate trustee together with the member of the fund concerned). The fund will then be administered by a financial services company who will also provide some of the investments.
- The amount of compensation you can get for any financial loss, if you have a valid claim against the SIPP provider, will depend on which investments you hold within your SIPP and how the SIPP itself is structured. For example, the FSCS allows Standard Life Trustee Company Limited (SLTC) as trustee of the Standard Life SIPP to claim for each client. The FSCS limits apply at member level and are £50,000 (previously £35,000) for deposit accounts, £48,000 for investment business (e.g., mutual funds) and 100% of the first £2,000 and 90% of the balance without limit for contracts of insurance (e.g. insured funds of the product provider).

The important thing is where the money is actually invested:

- If you have a Standard Life SIPP and invest 100% in external mutual funds and SLAL were to default, your investment is safe as it is held with an external fund manager and cannot be touched by creditors of SLAL.
- If you have a Standard Life SIPP and invest 100% in mutual funds (either internal or external mutual funds) and the fund manager defaults, your investment is still safe. The fund manager is required by the FSA to appoint a depositary who is responsible for the safekeeping of the assets. The depositary will normally appoint a custodian to act on their behalf.
- One of the custodian's primary functions is the safekeeping of securities and cash in deposit accounts, held in the name of the depositary. This has the effect of segregating the funds from the fund manager's own monies. The only circumstances that a default could occur in the mutual fund would be in the event of the fund manager acting dishonestly, fraudulently or negligently.

### SIPP Bank Account

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What happens if I have money in the Standard Life SIPP bank account?

- Cash deposits held in Standard Life Bank Limited (SLBL) within SIPP are protected under the FSCS rules. This means that SLTC can claim up to £50,000 (previously £35,000) on behalf of each SIPP customer in the event of SLBL defaulting. This applies equally to deposit accounts with other FSA authorised banks.

It is worth remembering that cash held on deposit with a bank is not the same from a FSCS perspective as investing in an insured cash fund. The former will have an FSCS limit of £50,000 (previously £35,000) if the bank defaults whereas the latter will be regarded as part of a contract of insurance which allows compensation up to 100% of the first £2,000 and 90% of the balance without limit if the insurer defaults. If the insurer invests some of the insured cash fund in a bank that defaults the insurer can't claim (as it is a 'large company') but it will use a number of banks to minimise default risk in the fund.

## Protected Contract of Insurance

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Are all insured funds with Standard Life covered by the 'protected contract of insurance' part of the FSCS?

- SLAL offers different types of funds but some SLAL insured funds invest in a fund provided by an external fund manager. This is known as an external fund link (EFL). If SLAL were unable to meet its claims, SLTC would be able to claim on behalf of each member under the 'Protected contract of insurance' category. This covers 100% of the first £2,000 of the member's share of the policy (including the value of the EFL funds) and 90% of the balance, without limit. However, if you invest in EFLs there would be no claim for compensation under FSCS rules if the external fund manager was unable to meet its claims, as SLAL cannot make a claim on behalf of its policyholders (as it is a 'large company'). SLTC cannot make a claim as it can only make a claim if SLAL is in default.
- Most EFLs available under the Standard Life Investment policy invest in OEICs. Where the external fund is an OEIC, the fund manager is however required by the FSA to appoint a depositary who is responsible for the safekeeping of the assets. The depositary will normally appoint a custodian to act on their behalf. One of the custodian's primary functions is the safekeeping of securities and cash in deposit accounts, held in the name of the depositary. This has the effect of segregating the funds from the external fund manager's own monies thus providing a robust level of protection for clients' SIPP investments in the event of insolvency of the external fund manager. The only circumstances that a default could occur in the OEIC would be in the event of the fund manager acting dishonestly, fraudulently or negligently.

## Mutual Fund Investment

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What protection would I have if I invest in mutual funds externally via my Standard Life SIPP?

- Where the mutual funds are accessed through a mutual funds platform or as a wider direct investment, SLTC can make a claim on behalf of individual SIPP members from the FSCS should the mutual fund manager default and be unable to cover their liabilities. This would be done under the Investment Business category and up to £48,000 (100% of the 1st £30,000 and 90% of the next £20,000) can be claimed. One of the custodian's primary functions is the safekeeping of securities and cash in deposit accounts, held in the name of the depositary. This has the effect of segregating the funds from the mutual fund manager's own monies thus providing a robust level of protection for client's SIPP investments in the event of insolvency of the mutual fund manager. The only time that SLTC would need to look to the FSCS for compensation would be in the event of the fund manager acting dishonestly, fraudulently or negligently. If SLAL or SLTC were to default, the mutual funds would still be an asset of the SIPP scheme and would therefore be fully protected if either of these companies defaulted.

## PROTECTION FOR ONSHORE BOND INVESTORS

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How are my investments protected in the event of an onshore bond product provider defaulting ?

- UK firms selling financial products in the UK (including Standard Life) are authorised by the Financial Services Authority (FSA). In general, any private individual (and others, such as certain trustees and small businesses) who invest in an onshore investment bond such as the bond offered by Standard Life Assurance Limited will be protected by the Financial Services Compensation Scheme (FSCS) should that authorised firm be unable to meet its liabilities.
- If Standard Life Assurance Limited (SLAL) defaulted the investment bond would be covered by the ‘protected contracts of insurance’ part of the scheme and you would be entitled to claim for up to 100% of the first £2,000 of the value of your bond followed by 90% of the balance.

### Protected Contract of Insurance

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Are all my investments in an onshore bond likely to be covered by the ‘protected contract of insurance’ part of the FSCS if an authorised firm defaults?

- SLAL offers different types of funds but some SLAL insured funds invest in a fund provided by an external fund manager. This is known as an external fund link (EFL).
- If SLAL were unable to meet its claims, investors would be protected under the ‘Protected contract of insurance’ category. This covers 100% of the first £2,000 of the value of the onshore bond (including the value of EFL funds) and 90% of the balance, without limit.
- However, if you invest in EFLs there would be no claim for compensation under FSCS rules if the external fund manager was unable to meet its claims, as SLAL cannot make a claim on behalf of its policyholders (as it is a ‘large company’). Where the external fund is an OEIC, the fund manager is required by the FSA to appoint a depositary who is responsible for the safekeeping of the assets. The depositary will normally appoint a custodian to act on their behalf. One of the custodian’s primary functions is the safekeeping of securities and cash in deposit accounts, held in the name of the depositary. This has the effect of segregating the funds from the external fund manager’s own monies thus providing a robust level of protection for investments in the event of insolvency of the external fund manager. The only circumstances that a default could occur in the OEIC would be in the event of the fund manager acting dishonestly, fraudulently or negligently.
- All EFLs offered through SLAL’s Onshore Bond invest in OEICs.

## PROTECTION FOR OFFSHORE BOND INVESTORS

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How are my investments protected in the event of an offshore investment bond product provider defaulting?

- Firms selling financial products to the UK market are authorised by the Financial Services Authority (FSA) or an EU regulator. In general, any private individual (and others, such as certain trustees and small businesses) who buys a product from an authorised firm or an EU insurer will be protected by the Financial Services Compensation Scheme (FSCS) should that authorised firm be unable to meet its liabilities. Standard Life International Ltd (SLIL) is authorised and regulated by the Irish Financial Regulator, regulated by the FSA for the conduct of UK business and regulated by the Jersey Financial Services Commission for the conduct of business in Jersey.
- If SLIL defaulted, the International Bond would be covered by the ‘protected contracts of insurance’ part of the scheme and you would be entitled to claim for up to 100% of the first £2,000 of the value of your bond (including the value of other investments described below) followed by 90% of the balance.

### Protected Contract of Insurance

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Are the International Bond insured funds likely to be covered by the ‘protected contract of insurance’ part of the FSCS if an authorised firm defaults?

- SLIL offers different types of funds but some SLIL insured funds invest in a fund provided by an external fund manager. This is known as an external fund link (EFL).
- If SLIL were unable to meet its claims, investors would be protected under the ‘Protected contract of insurance’ category. This covers 100% of the first £2,000 of the value of the offshore bond (including the value of EFL funds) and 90% of the balance, without limit.
- However, if you invest in EFLs there would be no claim for compensation under FSCS rules if the external fund manager was unable to meet its claims, as SLIL cannot make a claim on behalf of its policyholders (as it is a ‘large company’). Where the external fund is an OEIC, the fund manager is required by the FSA to appoint a depositary who is responsible for the safekeeping of the assets. The depositary will normally appoint a custodian to act on their behalf. One of the custodian’s primary functions is the safekeeping of securities and cash in deposit accounts, held in the name of the depositary. This has the effect of segregating the funds from the external fund manager’s own monies thus providing a robust level of protection for investments in the event of insolvency of the external fund manager. The only circumstances that a default could occur in the OEIC would be in the event of the fund manager acting dishonestly, fraudulently or negligently.
- All EFLs offered through SLAL’s Offshore Bond invest in OEICs.

## Investing In Deposit Accounts

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Would my investment in a deposit account be protected if the deposit account provider defaulted?

- Investments in UK based deposit accounts are not covered by the FSCS if the investor in these deposits is regarded by FSCS as a ‘large company’ (as generally all life offices would be). For example, if you invest in deposit accounts via a Standard Life offshore bond, they hold a pooled client deposit account with that bank in their name.
- Until recently, if the deposit account was based offshore, there would generally be no compensation available since these banks are not FSA authorised and the FSCS will therefore not apply. However, on 30 September, the Irish Government put in place with immediate effect a guarantee arrangement that will last until 28 September 2010 and that will safeguard all deposits (retail, commercial, institutional and interbank), covered bonds, senior debt and dated subordinated debt (lower tier II), with the following banks:
  - Allied Irish Bank
  - Bank of Ireland
  - Anglo Irish Bank
  - Irish Life and Permanent
  - Irish Nationwide Building Society
  - The Educational Building Society

Deposit accounts offered through the International Bond are protected by the Irish Government bank guarantee and this includes subsidiaries of these banks even if the subsidiary is not based in Ireland. The guarantee applies to individual, trustees and corporate investors in SLIL’s bank accounts, and therefore all these investors in SLIL’s deposit accounts are covered provided the deposit is held with one of the Irish subsidiary banks where this guarantee applies.

The International Bond currently offers access to deposit accounts with banks not covered by the guarantee. All of these banks providing deposit accounts on SLIL’s panel are subsidiaries of banks based in the UK or The Republic of Ireland. If a subsidiary was to default, the parent company is likely to make up any liability the subsidiary could not meet and many of the parent companies have provided letters of comfort to confirm this. In addition, when considering which offshore deposit accounts should be made available for investment via the International Bond, SLIL carries out robust due diligence on each deposit account provider, to assess their ability to administer the deposit account, taking into account their financial strength – i.e., their financial ratings and the financial strength of the parent company. This is constantly monitored.

## WARNINGS

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This report is for information purposes only and should not be taken as a specific recommendation to invest in any product. This report has been compiled based on our understanding of law and tax practice in Ireland and the UK at today’s date. This may be subject to change in the future. The tax benefits and allowances outlined may be subject to change in the future.

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