

## London & Colonial

### Regulation and security of assets

#### Introduction

This document sets out information about London & Colonial, how the companies in the group are regulated and the statutory protection schemes that are available to clients.

#### About us

The London & Colonial Group includes several companies both in the UK and overseas.

London & Colonial Assurance PLC is an insurer established and regulated in the EU.

This insurer was originally established for the purpose of offering a new type of annuity, called the Open Annuity. There is an associated preference share in the insurer under which the insurers mortality profit on the death of the annuitant was paid to the annuitant's estate. The share structure of the company that enabled this arrangement to be put in place was a feature of company law in Gibraltar at that time – the only jurisdiction in the EU where this share structure was recognised in law.

The Open Annuity was an outstanding success and following regulatory changes in the UK in 2006 the insurer launched a successor product, the New Open Annuity, to take advantage of the opportunities in the new regulations.

In 2008, London & Colonial's UK parent company, London & Colonial Holdings Ltd acquired London & Colonial Services Limited (previously The Fiduciary Corporation Limited). This company provides UK administration and distribution of the products of London & Colonial Assurance PLC as well as providing trustee and administration services for SIPP and SSAS arrangements.

London & Colonial has recently launched an EU SIPP (an overseas scheme similar to a UK SIPP) and is further extending its product range to offer new products both in the UK and elsewhere.

#### London & Colonial Assurance PLC

##### 1 Financial strength

London & Colonial Assurance PLC is a financially strong company in relation to the business that it undertakes. It has no debt and its reserves significantly exceed the statutory minimum.

##### 2 Regulation

London & Colonial Assurance PLC is regulated by the Financial Services Commission (FSC) in Gibraltar. The FSC is the competent authority in Gibraltar for the regulation of all financial services business in the jurisdiction. It is required by law to match UK standards of supervision in areas where EU law applies. In other words it must implement all EU directives relating to insurance supervision and, in any instances where the UK's regulatory regime is stricter than the EU's it must match UK standards.

##### 3 Gibraltar

Gibraltar itself is rated AAA by Moodys. It has also been named by the International Monetary Fund (IMF) as one of the top places in the world for complying with banking and insurance regulations.

A team of nine IMF inspectors found that the financial services sector is meeting all 40 recommendations made by the revised Financial Action Task Force on prevention of money laundering and 9 special recommendations aimed at combating terrorist financing.

Of 30 applicable international banking standards, the British territory was fully compliant with 27 and largely compliant with the remaining three. Gibraltar also observes 24 out of 28 applicable insurance standards and largely or partially observes the remaining four.

A press release relating to the inspection by the IMF can be viewed on the FSC's website at <http://www.fsc.gi/fsclists/pressrelease.aspx?PressReleaseID=71> and the full report is available from us on request.

## **London & Colonial Services Limited**

### **1 Financial strength**

London & Colonial Services Limited is also a financially strong company in relation to the business that it undertakes. It has cash reserves that substantially exceed the amount required by its regulator.

The company acts primarily as a trustee and scheme administrator. If for any reason the company were to stop trading the services that it provides would then be fulfilled by replacement trustees and administrators.

### **2 Regulation**

The Financial Services Authority (FSA) is the competent authority in the UK for the regulation of all financial services business in the UK.

London & Colonial Services Limited is authorised and regulated by the FSA for the establishment, operation and winding-up of personal pension schemes, including SIPPs.

## **Compensation arrangements**

### **1 UK Financial Services Compensation Scheme (FSCS)**

The Financial Services Compensation Scheme (FSCS) was established to provide compensation where FSA authorised firms and appointed representatives are unable to satisfy claims against them.

When an FSA authorised firm is unable or is unlikely to be able to pay claims against it, the FSCS will generally declare the firm as being 'in default' and only after this time will they consider any claims. The FSCS can pay compensation only to eligible claimants. Eligible claimants are usually consumers but different rules apply to different types of claim; you should contact the FSCS for further details. 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.

The FSCS currently includes the following compensation limits:

**Deposits** – covers up to £85,000.

**Contracts of Insurance** – covers long-term policies such as life assurance and pension policies up to 90% of the whole claim, without limit.

**Investment business** – cover up to £50,000

In general any eligible claimant who buys a product from a UK authorised firm will be protected by the Financial Services Compensation Scheme (FSCS) if that authorised firm becomes unable to meet its liabilities. If deposit or other accounts are held in other jurisdictions then the availability of compensation will depend on the arrangements in place in that jurisdiction.

Further information is available on the FSCS website [www.fscs.org.uk](http://www.fscs.org.uk)

## **2 London & Colonial Assurance PLC & the FSCS**

### **Compensation available if the insurer defaults**

EU insurers outside the UK wishing to sell their products to UK residents are able to do so under EU legislation providing for what are known as “passporting rights”. Insurers who have obtained these passporting rights to offer products to UK residents pay levies on the same basis as UK insurers and sales to UK residents are covered by the UK FSCS.

London & Colonial Assurance PLC has obtained such a “passport” and pays the appropriate FSCS levies. Sales of its products conducted in the UK to UK residents at the time the contract commenced would therefore be covered by the ‘protected contracts of insurance’ part of the FSCS in the unlikely event that it were to default on claims under its policies. Under these arrangements policyholders would be entitled to claim up to 90% of the value of the policy - which is exactly the same basis as applies to claims to UK insurers made by UK residents.

### **IMPORTANT NOTE**

Please note that compensation arrangements vary depending on jurisdiction.

For example, the application of the UK FSCS for ‘protected contracts of insurance’ currently depends on where the risk or commitment is determined to be when the contract is taken out.

The situation of a risk or commitment is determined as follows:

- 1) If the policyholder who first took out the contract of insurance is an individual, the risk or commitment is situated where he has his habitual residence at the date when the contract of insurance commenced.
- 2) If the policyholder who first took out the contract of insurance is not an individual, the risk or commitment is situated where the establishment to which the risk or commitment relates is situated at the date when the contract of insurance commenced.

**Please check with your financial adviser which compensation arrangements apply as these may be determined in part by where you are habitually resident and in which jurisdiction the product was sold.**

### **Compensation available in the event of failure of investments held under a policy**

Until recently it was understood that investments purchased by London & Colonial Assurance Plc in connection with its policies were not directly covered by the FSCS, due to London & Colonial Assurance Plc being classed as a ‘large institution’ and therefore not eligible to claim compensation under the rules of the FSCS. However, we challenged this position in relation to the recent failure of Keydata and policyholders did receive compensation paid by the FSCS. It is possible that this may not be able to be taken as a precedent and so we still take a cautious view of the scope of the FSCS. Consequently, if the benefits under a policy are directly related to the value of a particular asset and if the value of that asset is not realised in full then the policy value may not benefit from a claim under the FSCS.

## **3 London & Colonial Services Limited and the FSCS**

### **Compensation available if this company fails**

Sales of SIPP arrangements offered by London & Colonial Services Limited are covered by the FSCS.

The scheme assets legally belong to the trustee but they are required to be kept separate from other assets belonging to the trustee. This is because the trustee does not hold the scheme assets for its own benefit but on trust for the benefit of the scheme members. The assets would therefore not be on the trustee’s own balance sheet nor available to its creditors.

In the circumstances of the failure of the trustee (or, if a different entity, failure of the administrator) there would normally be no need for any claim to be considered, whether against the FSCS or otherwise, as the assets would be ring-fenced and still be available to provide benefits under the scheme rules as before. If necessary a replacement trustee or administrator would be appointed to continue the operation of the scheme.

## **Compensation available in the event of failure of investments held under a SIPP**

The level of protection depends upon the investments that are held.

If the provider of a financial product held in the Open Pension is covered by the FSCS, the trustee should be able to make a claim on behalf of each member's SIPP

The FSCS limits that apply are covered above.

UK regulated fund managers are required by the FSA to appoint a depository who is responsible for the safekeeping of the assets. The depository 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 depository. This has the effect of segregating the funds from the fund manager's own assets.

Discretionary Fund Managers (DFM) are obliged to keep client assets separate from their own assets. If the DFM defaults, there is normally no need to make a claim on the FSCS as the assets are still owned by the trustee and can therefore be recovered in full.

If the investment provider chosen by the DFM defaults, the trustee will be able to claim in respect of underlying assets if those assets are covered by the FSCS.

Cash deposits held in the Open Pension with UK banks are normally protected under the FSCS rules. This means that trustee can claim up to £50,000 on behalf of each SIPP member in the event of an FSA regulated bank defaulting.

## **Further information**

We welcome enquiries and we will be happy to provide further details and explanations upon request.

For further information please contact:

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"London & Colonial" is a trading name of companies within the London & Colonial group; London & Colonial Holdings Limited - registered in England No: 4093489; London & Colonial Services Limited - registered in England No: 2966313 Authorised and regulated by the Financial Services Authority in the UK for establishing, operating and winding up personal pension schemes including SIPPs and a Member of the Association of Member-Directed Pension Schemes; London & Colonial Trustees Limited Associated company - registered in England No: 2275364; all of the above companies have the following registered office 38-42 Perrymount Road, Haywards Heath, West Sussex RH16 3DN; London & Colonial Assurance Plc - registered in Gibraltar No: 80650 Authorised by the Financial Services Commission, Gibraltar Registered office, PO Box 199, 57-63 Line Wall Road, Gibraltar. Tel: 08707 566696 Fax: 08707 566697 Web: [www.londoncolonial.com](http://www.londoncolonial.com)