



## **ISA Bulletin**

**Number 40**

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The ISA Bulletin keeps ISA managers informed of any new developments relating to the ISA scheme. Please ensure the appropriate people in your organisation read it.

We suggest that you keep Bulletins at the front of your copy of the Guidance Notes for ISA Managers.

### **This Bulletin contains an article on**

- ISA reinstatement

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## ISA REINSTATEMENT

The Government has announced its intention to change the ISA rules to permit investors who have lost out following the failure or default of a financial firm to:

- reinstate amounts to a new ISA; or
- invest any subsequent compensation or similar payments in a stocks and shares ISA

outside normal subscription limits in certain cases.

The relevant Ministerial statement can be found under today's date at <http://www.parliament.uk/business/publications/hansard/commons/by-date/>

It is also proposed to permit the investment of other types of compensation (or similar payments) derived from an ISA investment outside normal subscription limits.

The Government intends that changes to the ISA rules will provide for the principles set out below.

### **Failure of a cash ISA manager**

Where a cash ISA manager fails, the Government intends to permit affected investors to make a single ISA reinstatement outside normal ISA subscription limits, up to the value of their cash ISA balance at the date of the failure. This reinstatement can be made in another cash ISA, or a stocks and shares ISA.

It is intended to permit this reinstatement regardless of whether or not the investor has been paid compensation following the failure of the cash ISA manager.

#### *Example 1*

An investor had a balance of £30,000 in a cash ISA on the date the manager was declared in default by the FSA, and receives £30,000 compensation from the Financial Services Compensation Scheme (FSCS). It is intended to permit this investor to make a single ISA reinstatement outside normal subscription limits, up to £30,000 – either in a cash ISA with another manager, or in a stocks and shares ISA.

#### *Example 2*

An investor had a balance of £30,000 in a cash ISA on the date the manager was declared in default by the FSA, and £100,000 cash on deposit in non-ISA accounts with the same manager. The investor receives only £85,000 compensation due to the FSCS cap. It is intended to permit this investor to make a single ISA reinstatement outside normal subscription limits, up to £30,000 – either in a cash ISA with another manager, or in a stocks and shares ISA.

### **Failure of investments in a stocks and shares ISA (other than where Lehman Brothers was the sole counterparty)**

Where an investor holds ISA-qualifying investments in a stocks and shares ISA and some or all of these investments fail, they may receive some form of capital payment, which may include compensation. Where such a capital payment is derived from failed ISA investments, it is intended to permit the investor to pay all or part of that sum into a stocks and shares ISA, outside normal subscription limits. Only a single reinstatement will be permitted in these cases.

For these purposes, a sum will be derived from an asset held in an ISA if it is a capital sum to which section 22 of the Taxation of Chargeable Gains Act 1992 would have applied, had the relevant asset been held outside an ISA.

It is not intended to change the position for any compensation or similar amounts that are not derived from an asset held in the ISA (for example sums paid to a customer purely in respect of poor service by the manager, and not on account of an impairment in the value of assets in which the investor has invested). These sums may only be paid into an ISA as fresh subscriptions, and will therefore remain subject to normal subscription limits.

Similarly, where the value of ISA investments fall due to normal market conditions and no payment is made to the investor, normal ISA subscription rules will continue to apply.

### **Failure linked to the collapse of Lehman Brothers.**

It is intended that a different approach will be taken in cases where Lehman Brothers was, at the time of its collapse, the sole counterparty to an investment product. This will cover ISA products provided by NDF, Arc, DRL and Meteor Asset Management.

In these cases, it is intended to permit affected investors to make a single payment to a stocks and shares ISA outside normal subscription limits, up to the value of their ISA investment at the time Lehman Brothers collapsed. This will be regardless of whether or not the investor has received any compensation or other capital payment.

It is not intended to include ISA qualifying products backed by Lehman Brothers together with other counterparties within this provision. However, the intended changes set out above in relation to the failure of investments held in a stocks and shares ISA may apply where compensation or similar amounts have been paid to the investor.

### **Implementation**

HM Revenue & Customs intend to publish draft amending regulations for comment in the New Year. It is anticipated that finalised regulations will be laid in spring 2012.

It may not be possible for reinstatement certificates to be provided to investors in all cases. HM Revenue & Customs would therefore welcome views on what evidence might be required by managers to support reinstatement of:

- account balances (cash ISA failure),
- capital sums received (stocks and shares failure), or
- the value of the investment at the time of failure (Lehman cases).

Examples of acceptable evidence will be included in future ISA Guidance.

HM Revenue & Customs would also welcome views on any other implementation issues for managers and investors.