

## Chapter 11

# Debt management client money chapter

## 11.10 Payments to creditors

- 11.10.1 R** Where a *CASS debt management firm* receives *client money* from a *client* in relation to a *debt management plan* or for the purpose of distribution to the *client's* creditors, the *firm* must pay that *money* to creditors as soon as reasonably practicable, save in the circumstances in ■ CASS 11.10.3 R.
- 11.10.2 G** In the *FCA's* view, the payment to creditors under ■ CASS 11.10.1 R should normally be within five *business days* of the receipt of cleared funds.
- 11.10.3 R** The circumstances referred to in ■ CASS 11.10.1 R are:
- (1) the contract between the *client* and the *CASS debt management firm* expressly provides that *client money* might be held for more than five *business days* without being distributed to creditors;
  - (2) the existence of such a term expressly providing that *client money* might be held for more than five *business days* without being distributed to creditors has been separately brought to the attention of the *client* prior to his entering into the contract; and
  - (3) the *CASS debt management firm* has explained to the *client* the risks and implications, if any, of payment to creditors being delayed prior to the entry into the contract.
- 11.10.4 R** On each occasion that a *CASS debt management firm* receives *client money* from a *client* in relation to a *debt management plan*, or for the purpose of distribution to the *client's* creditors, and it is proposed not to make a *client's* payment to creditors within five *business days* of receipt of the *client money* in the circumstances described in ■ CASS 11.10.3 R (1), it must:
- (1) as soon as reasonably practicable and within the five *business day* period, inform the *client's* creditors of the fact that it has received *client money* from the *client* for the purpose of distribution to his or her creditors and that it will not distribute that *client money* to the creditors within the five *business-day* period; and
  - (2) perform daily reconciliations of the money held for the *client* concerned in accordance with the provisions of ■ CASS 11.11.
- 11.10.5 R** On each occasion a *CASS debt management firm* receives *client money* from a *client* in relation to a *debt management plan*, or for the purpose of distribution to the *client's* creditors, and is unable for any reason other than

in the circumstances described in ■ CASS 11.10.3 R (1) to make a payment to the *client's* creditors within five *business days* of receipt, it must:

- (1) inform the *client* of the delay and the reason for the delay;
- (2) inform the *client* of the risks and implications of the late payments;
- (3) inform the *client's* creditors of this delay as soon as reasonably practicable and within the period of five *business days* of the receipt of the relevant *client money*; and
- (4) perform daily checks of its records of the money held for the *client* concerned in accordance with the provisions of ■ CASS 11.11.

**11.10.6** R

- (1) Subject to (2), where a *CASS debt management firm* receives *client money* from a *client* in relation to a *debt management plan* or for the purpose of distribution to the *client's* creditors, and it fails to pay that *money* to creditors as soon as reasonably practicable following its receipt (see ■ CASS 11.10.1 R and ■ CASS 11.10.2 G), it must put the *client* into the financial position he would have been in had the delay not occurred.
- (2) Paragraph (1) does not apply in the circumstances described in ■ CASS 11.10.3 R or where the delay is due to circumstances beyond the *firm's* control.

**11.10.7** G

Putting a *client* into the position he would have been in had the delay not occurred under ■ CASS 11.10.6 R should include paying to the *client* a sum equivalent to the amount of any additional interest which would not have accrued but for the delay and any default charges that have been applied to the account as a result of the delay.