

Chapter 11

Debt management client money chapter



11.11 Records, accounts and reconciliations

Records and accounts

11.11.1 **R** A CASS *debt management firm* must keep such records and accounts as are necessary to enable it, at any time and without delay, to distinguish *client money* held for one *client* from *client money* held for any other *client*, and from its own *money*.

11.11.2 **G** In accordance with **■ CASS 11.11.1 R**, a CASS *debt management firm* must maintain internal records and accounts of the *client money* it holds (for example, a cash book). These internal records are separate to any external records it has obtained from *approved banks* with whom it has deposited *client money* (for example, bank statements).

11.11.3 **R** A CASS *debt management firm* must maintain its records and accounts in a way that ensures their accuracy and, in particular, their correspondence to the *client money* held for individual *clients*.

11.11.4 **R** A CASS *debt management firm* must maintain up-to-date records that detail all payments to, from, or made on behalf of, *clients* and written and oral contact with *clients* and their creditors.

Policies and procedures

11.11.5 **G** CASS *debt management firms* are reminded that they must, under **■ SYSC 6.1.1 R**, establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the *firm* with the *rules* in this chapter.

Checks and reconciliations of internal records

11.11.6 **G** So that a CASS *debt management firm* may check that it has sufficient *money* segregated in its *client bank accounts* to meet its obligations to *clients* for whom it is undertaking *debt management activity*, it is required periodically to carry out reconciliations of its internal records and accounts to check that the total amount of *client money* that it should have segregated in *client bank accounts* is equal to the total amount of *client money* it actually has segregated in *client bank accounts*. **■ CASS 11.11.8 R** to **■ CASS 11.11.23 R** provide *rules* that the different types of CASS *debt management firm* are obliged to follow to meet this obligation.

Checks of internal records: CASS small debt management firm

- 11.11.7 **G** For a *CASS small debt management firm* to demonstrate it has maintained its records and accounts in a way envisaged by **■ CASS 11.11.3 R**, it should carry out checks of its internal records and accounts that are reasonable and proportionate to its business. **■ CASS 11.11.8 R** provides a rule that a *CASS small debt management firm* is obliged to follow to meet this obligation.
- 11.11.8 **R** A *CASS small debt management firm* must undertake periodic checks of its internal accounts and records to ensure that the amount of money it holds in its *client bank accounts* is equal to the amount of *client money* that should be segregated under **■ CASS 11.9**.
- 11.11.9 **R** In carrying out the checks required by **■ CASS 11.11.8 R** a *CASS small debt management firm* must use the values contained in its internal records and ledgers (for example, its cash book or other internal accounting records), rather than the values contained in the records it has obtained from *approved banks* with whom it has deposited *client money* (for example, bank statements).
- 11.11.10 **G** The checks that a *CASS small debt management firm* is required to undertake under **■ CASS 11.11.8 R** include checking that its internal records and accounts accurately record the balances of *client money* held in respect of individual *clients*, and that the aggregate of those individual *client money* balances are equal to the total *client money* segregated in its *client bank accounts*. In undertaking the comparison between the internal records of balances of *client money* and the *client money* segregated in *client bank accounts*, a *firm* should use the previous day's closing *client money* balances and should compare those with other records relating to the same day. In determining an appropriate frequency for its record checks, a *firm* should consider the volume and frequency of transactions in its *client bank accounts*.
- 11.11.11 **G** In seeking to comply with its obligation to carry out checks on its internal records and accounts, a *CASS small debt management firm* may choose to follow the steps specifically required of *CASS large debt management firms* in undertaking a *CASS large debt management firm internal client money reconciliation* and *CASS large debt management firm external client money reconciliation*. A *CASS small debt management firm* which follows that procedure is likely to be regarded by the *FCA* as having fulfilled its obligation under **■ CASS 11.11.8 R**.

CASS small debt management firms: remedying discrepancies

- 11.11.12 **R** Where the check of its internal records and accounts that a *CASS small debt management firm* is required to undertake under **■ CASS 11.11.8 R** reveals a difference between the amount of *money* it holds in its *client bank accounts* and the amount of *client money* that should be held and segregated under **■ CASS 11.9**, a *CASS small debt management firm* must:
- (1) ensure that any shortfall in the amount held in its *client bank accounts* as compared to the amount that should be held there is made up by a prompt payment into the *firm's client bank accounts*;

- (2) ensure that any excess in the amount held in its *client bank accounts* as compared to the amount that should be held there is promptly withdrawn from its *client bank accounts*; and
- (3) ensure that any correction of a shortfall or excess of the kind referred to in (1) and (2) is carried out, at the latest, before the end of the *business day* following the day on which difference was discovered.

CASS large debt management firms internal client money reconciliation

- 11.11.13 **R** A CASS large debt management firm must, as regularly as is necessary, but no less often than every five *business days*, carry out a CASS large debt management firm internal client money reconciliation.
- 11.11.14 **R** A CASS large debt management firm internal client money reconciliation requires a CASS large debt management firm to check whether its *client money resource*, as determined by **■ CASS 11.11.16 R**, on the previous *business day*, was at least equal to the *client money requirement*, as determined by **■ CASS 11.11.17 R** as at the close of business on that day.
- 11.11.15 **R** In carrying out a CASS large debt management firm internal client money reconciliation, a CASS large debt management firm must use the values contained in its internal records and ledgers (for example, its cash book or other internal accounting records), rather than the values contained in the records it has obtained from *approved banks* with whom it has deposited *client money* (for example, bank statements).

Calculating the client money resource

- 11.11.16 **R** The *client money resource* for *client money* held in accordance with **■ CASS 11.11.14 R** is the aggregate of the balances on the *firm's client bank accounts*, as at the close of business on the previous *business day*.

Calculating the client money requirement

- 11.11.17 **R**
- (1) The *client money requirement* is the sum of:
 - (a) the aggregate of all individual *client balances* calculated in accordance with **■ CASS 11.11.21 R** and **■ CASS 11.11.22 R**;
 - (b) the amount of any unallocated *client money* under **■ CASS 11.9.7 R**;
 - (c) the amount of any unidentified *client money* under **■ CASS 11.9.8 R**; and
 - (d) any other amounts of *client money* included in the calculation under (2).
 - (2) For the purposes of (1)(d), the CASS debt management firm must consider whether there are amounts of *client money*, other than those in (1)(a) to (c), to which the requirement to segregate applies and that it is appropriate to include in the calculation of its *client money requirement* and, if so, adjust the calculation accordingly.

11.11.18 **G** The *client money* requirement calculated in accordance with **■ CASS 11.11.17 R** should represent the total amount of *client money* a *CASS debt management firm* is required to have segregated in *client bank accounts* under the *debt management client money chapter*.

11.11.19 **G** *Firms* are reminded that, under **■ CASS 11.4.3 R**, if a *firm* has drawn any cheques, or other payable orders, to discharge its fiduciary duty to its *clients* (for example, to return *client money* to the *client* or distribute it to the *client's* creditors), the sum concerned must be included in the *firm's* calculation of its *client money* requirement until the cheque or order is presented and paid.

11.11.20 **G** The following *guidance* applies where a *CASS debt management firm* receives *client money* in the form of cash, a cheque or other payable order:

- (1) In carrying out the calculation of the *client money* requirement, a *CASS debt management firm* may initially include the amount of *client money* received as cash, cheques or payment orders that has not yet been deposited in a *client bank account* in line with **■ CASS 11.9.5 R**. If it does so, the *firm* should ensure, before finalising the calculation, that it deducts these amounts to avoid them giving rise to a difference between the *firm's client money* requirement and *client money* resource.
- (2) In carrying out the calculation of the *client money* requirement, a *CASS debt management firm* may alternatively exclude the amount of *client money* received as cash, cheques or payment orders that has not yet been deposited in a *client bank account* in line with **■ CASS 11.9.5 R**. If it does so, the *firm* is reminded that it must separately record the receipt of the *money* in the *firm's* books and records under **■ CASS 11.9.5 R** (3).
- (3) A *CASS debt management firm* that receives *client money* in the form of cash, a cheque or other payable order is reminded that it must pay that *money* into a *client bank account* promptly and no later than on the *business day* after it receives the *money* (see **■ CASS 11.9.5 R**).

11.11.21 **R** The individual *client* balance for each *client* must be calculated as follows:

- (1) the amount paid by the *client* to the *CASS debt management firm*;
plus
- (2) the amount of any interest, and any other sums, due to the *client*;

less:

- (3) the aggregate of the amount of money:
 - (a) paid back to that *client*; and
 - (b) due and payable by the *client* to the *CASS debt management firm*; and
 - (c) paid out to a third party for, or on behalf of, that *client*.

- 11.11.22 **R** Where the individual *client* balance calculated in respect of an individual *client* under **■** CASS 11.11.21 R is a negative figure (because the amounts paid by or due to a *client* under **■** CASS 11.11.21 R (1) and **■** CASS 11.11.21 R (2) are less than the amounts paid out or due and payable by that *client* under **■** CASS 11.11.21 R (3), that individual *client* balance should be treated as zero for the purposes of the calculation of the *firm's client money* requirement in **■** CASS 11.11.17 R.

Large debt management firms: reconciliation differences and discrepancies

- 11.11.23 **R** When a CASS large debt management firm internal client money reconciliation reveals a difference between the *client money* resource and its *client money* requirement a CASS large debt management firm must:

- (1) identify the reason for the difference;
- (2) ensure that any shortfall in the amount of the *client money* resource as compared to the amount of the *client money* requirement is made up by a payment into the *firm's client bank accounts* by the end of the *business day* following the day on which difference was discovered; and
- (3) ensure that any excess in the amount of the *client money* resource as compared to the amount of the *client money* requirement is withdrawn from the *firm's client bank accounts* by the end of the *business day* following the day on which the difference was discovered.

CASS large debt management firm external client money reconciliation

- 11.11.24 **G** The purpose of the reconciliation process required by **■** CASS 11.11.25 R is to ensure the accuracy of a *firm's* internal accounts and records against those of any third parties by whom *client money* is held.

- 11.11.25 **R** A CASS large debt management firm should perform a CASS large debt management firm external client money reconciliation:

- (1) as regularly as is necessary; and
- (2) no less frequently than the CASS large debt management firm internal client money reconciliations; and
- (3) as soon as reasonably practicable after the date to which the reconciliation relates;

to ensure the accuracy of its internal accounts and records against those of approved banks with whom *client money* is deposited.

- 11.11.26 **R** A CASS large debt management firm external client money reconciliation requires a CASS large debt management firm to conduct a reconciliation between its internal accounts and records and those of any approved banks by whom *client money* is held.

11.11.27 **G** The *FCA* expects a *CASS large debt management firm* which carries out transactions for its clients on a daily basis to carry out a *CASS large debt management firm external client money reconciliation* on a daily basis.

11.11.28 **R** When any discrepancy is revealed by a *CASS large debt management firm external client money reconciliation*, a *CASS large debt management firm* must identify the reason for the discrepancy and correct it as soon as possible, unless the discrepancy arises solely as a result of timing differences between the accounting systems of the party providing the statement or confirmation and that of the *firm*.

11.11.29 **R** While a *CASS large debt management firm* is unable to resolve a discrepancy arising from the *CASS large debt management firm external client money reconciliation*, and one record or a set of records examined by the *firm* during the reconciliation process indicates that there is a need to have greater amount of *client money* than is in fact the case, the *firm* must assume, until the matter is finally resolved, that the record or set of records is accurate and pay its own *money* into a relevant account.

Notification requirements

11.11.30 **R** A *CASS debt management firm* must inform the *FCA* in writing without delay if:

- (1) its internal records and accounts of *client money* are materially out of date or materially inaccurate so that the *firm* is no longer able to comply with the requirements in ■ CASS 11.11.1 R to ■ CASS 11.11.4 R; or
- (2) it becomes aware that, at any time in the preceding 12 months, the amount of *client money* segregated in its *client bank accounts* materially differed from the total aggregate amount of *client money* the *firm* was required to segregate in *client bank accounts* in accordance with the segregation requirements in ■ CASS 11.9.

11.11.31 **R** A *CASS large debt management firm* must inform the *FCA* in writing without delay if:

- (1) after having carried out a *CASS large debt management firm internal client money reconciliation* in accordance with ■ CASS 11.11.13 R it will be unable to, or materially fails to, pay any shortfall into (or withdraw any excess from) a *client bank account* so that the *firm* is unable to comply with ■ CASS 11.11.23 R;
- (2) after having carried out a *CASS large debt management firm external client money reconciliation* in accordance with ■ CASS 11.11.25 R it will be unable to, or materially fails to, identify and correct any discrepancies in accordance with ■ CASS 11.11.28 R;
- (3) it will be unable to or materially fails to conduct a *CASS large debt management firm internal client money reconciliation* in compliance with ■ CASS 11.11.13 R; or

(4) it will be unable to or materially fails to conduct a *CASS large debt management firm external client money reconciliation* in compliance with ■ CASS 11.11.25 R.

11.11.32 **G** *CASS debt management firms* are also reminded of their obligation to notify the *appropriate regulator* of a significant breach of a *rule* under ■ SUP 15.3.11 R.