

Chapter 11

Debt management client money chapter

11.6 Statutory trust

11.6.1 **R** A CASS debt management firm receives and holds client money as trustee on the following terms:

- (1) for the purposes and on the terms of the *debt management client money rules* and the *debt management client money distribution rules*;
- (2) subject to (3), for the *clients* for whom that *money* is held, according to their respective interests in it;
- (3) on *failure* of the CASS debt management firm, for the payment of the costs properly attributable to the distribution of the *client money* in accordance with (2); and
- (4) after all valid claims and costs under (2) and (3) have been met, for the CASS debt management firm itself.

11.6.2 **G** Section 137B(1) of the Act provides that rules may make provisions which result in *client money* being held by a *firm* on trust. ■ CASS 11.6.1 R creates such a rule in relation to *client money* held by a CASS debt management firm. The consequence of this rule is there is a fiduciary relationship between a CASS debt management firm and its *client*, under which *client money* is in the legal ownership of the *firm* but remains in the beneficial ownership of the *client*. In the event of *failure* of the CASS debt management firm, costs relating to the distribution of *client money* may have to be borne by the trust.