

Chapter 11

Debt management client money chapter



11.9 Segregation and the operation of client money accounts

Requirement to segregate

- 11.9.1 **R** A CASS debt management firm must take all reasonable steps to ensure that all *client money* it receives is paid directly into a *client bank account* at an *approved bank*, rather than being first received into the *firm's* own account and then segregated.
- 11.9.2 **G** A CASS debt management firm should arrange for *clients* and third parties to make transfers and payments of any *money* which will be *client money* directly into the *firm's client bank accounts*.
- 11.9.3 **R** A CASS debt management firm must ensure that *client money* is held in a *client bank account* at one or more *approved banks*.
- 11.9.4 **R** Cheques received by a CASS debt management firm, made out to the *firm*, representing *client money* or a *mixed remittance* must be treated as *client money* from receipt by the *firm*.
- 11.9.5 **R** Where a CASS debt management firm receives *client money* in the form of cash, a cheque or other payable order, it must:
- (1) pay the *money* into a *client bank account* in accordance with **■ CASS 11.9.1 R** promptly and no later than on the *business day* after it receives the *money*;
 - (2) if the *firm* holds the *money* overnight, hold it in a secure location in line with *Principle 10*; and
 - (3) record the receipt of the *money* in the *firm's* books and records under the applicable requirements of **■ CASS 11.11** (Records, accounts and reconciliations).

Mixed remittance

- 11.9.6 **R** If a CASS debt management firm receives a *mixed remittance* it must:
- (1) pay the full sum into a *client bank account* promptly and in accordance with **■ CASS 11.9.1 R** to **■ CASS 11.9.5 R**; and

- (2) no later than one *business day* after the payment of the *mixed remittance* into the *client bank account* has cleared, pay the money that is not *client money* out of the *client bank account*.

Allocation of client money receipts

11.9.7

R

- (1) A *CASS debt management firm* must allocate in its books and records any *client money* it receives to an individual *client* promptly and, in any case, no later than five *business days* following the receipt.
- (2) Pending a *CASS debt management firm's* allocation of a client money receipt to an individual *client* under (1), it must record the received *client money* in its books and records as "unallocated client money".

11.9.8

R

If a *CASS debt management firm* receives money (either in a *client bank account* or an account of its own) which it is unable immediately to identify as *client money* or its own *money*, it must:

- (1) take all necessary steps to identify the *money* as either *client money* or its own *money*;
- (2) if it considers it reasonably prudent to do so, given the risk that *client money* may not be adequately protected if it is not treated as such, treat the entire balance of *money* as *client money* and record the *money* in its books and records as "unidentified client money" while it performs the necessary steps under (1).

11.9.9

G

If a *CASS debt management firm* is unable to identify money that it has received as either *client money* or its own *money* under **■** CASS 11.9.8 R (1), it should consider whether it would be appropriate to return the *money* to the person who sent it (or, if that is not possible, to the source from where it was received, for example, the bank). A *firm* should have regard to its fiduciary duties when considering such matters.

Money received by appointed representatives, tied agents, field representatives and other agents

11.9.10

R

A *CASS debt management firm* must ensure that *client money* received by its *appointed representatives, field representatives* or other agents is:

- (1) received directly into a *client bank account* of the *firm*; or
- (2) if it is received in the form of a cheque or other payable order:
 - (a) paid into a *client bank account* of the *CASS debt management firm* promptly and, in any event, no later than the next *business day* after receipt; or
 - (b) forwarded to the *firm* or, in the case of a *field representative*, forwarded to a specified business address of the *CASS debt management firm*, to ensure that the *money* arrives at the specified business address promptly and, in any event, no later than the close of the third *business day* following the receipt of the *money* from the client; or

(3) if it is received in the form of cash, paid into a *client bank account* of the *CASS debt management firm* promptly and, in any event, no later than the next *business day* after receipt.

Interest

11.9.11 **R** A *CASS debt management firm* must pay a *client* any interest earned on *client money* held for that *client*.

Returning money to clients

11.9.12 **R** A *CASS debt management firm* must, on receipt of a written request to withdraw from a *debt management plan*, promptly return to the *client* any *client money* held by it for the *client*.

11.9.13 **G** The *FCA* would expect compliance with the requirement in **R** CASS 11.9.12 R to return *client money* promptly to require *client money* to be returned to a *client* within five *business days* of the date on which a *client's* withdrawal from a *debt management plan* takes effect.