

## Chapter 11

# Debt management client money chapter



## Guidance notes for client bank account acknowledgement letters (CASS 11.8.5G)

### Introduction

1. This annex contains *guidance* on the use of the template *client bank account acknowledgement letters* in ■ CASS 11 Annex 1.

### General

2. Under ■ CASS 11.8.2 R (2), CASS debt management firms are required to have in place a duly signed and countersigned *client bank account acknowledgement letter* for a *client bank account* before they are allowed to hold or receive *client money* in or into the account.

3. For each *client bank account* a CASS debt management firm is required to complete, sign and send to the *approved bank* a *client bank account acknowledgement letter* identifying that account and in the form set out in ■ CASS 11 Annex 1 (CASS debt management firm client bank account acknowledgement letter template).

4. When completing a *client bank account acknowledgement letter* using the appropriate template, a CASS debt management firm is reminded that it must not amend any of the text which is not in square brackets (acknowledgment letter fixed text). A CASS debt management firm should also not amend the non-italicised text that is in square brackets. It may remove or include square bracketed text from the letter, or replace bracketed and italicised text with the required information, in either case as appropriate. The notes below give further guidance on this.

### Clear identification of relevant accounts

5. A CASS debt management firm is reminded that for each *client bank account* it needs to have in place a *client bank account acknowledgement letter*. As a result, it is important that it is clear to which account or accounts each *client bank account acknowledgement letter* relates. As a result, the templates in ■ CASS 11 Annex 1 require that the *client bank account acknowledgement letter* include the full title and at least one unique identifier, such as a sort code and account number, deposit number or reference code, for each *client bank account*.

6. The title and unique identifiers included in a *client bank account acknowledgement letter* for a *client bank account* should be the same as those reflected in both the records of the CASS debt management firm and the relevant *approved bank*, as appropriate, for that account. Where an *approved bank's* systems are not able to reflect the full title of an account, that title may be abbreviated to accommodate that system, provided that:

(a) the account may continue to be appropriately identified in line with the requirements of ■ CASS 11 (for example, 'segregated' may be shortened to 'seg', 'account' may be shortened to 'acct' etc); and

(b) when completing a *client bank account acknowledgement letter*, such letter must include both the long and short versions of the account title.

7. A CASS debt management firm should ensure that all relevant account information is contained in the space provided in the body of the client bank account acknowledgement letter. Nothing should be appended to a client bank account acknowledgement letter.

8. In the space provided in the template letters for setting out the account title and unique identifiers for each relevant account/deposit, a CASS debt management firm may include the required information in the format of the following table:

| Full account title                         | Unique identifier   | Title reflected in [name of approved bank] systems |
|--|---------------------|--|
| [Debt Management Firm Client Bank Account] | [00-00-00 12345678] | [DM FIRM CLIENT A/C]                               |

9. Where a client bank account acknowledgement letter is intended to cover a range of client bank accounts, some of which may not exist as at the date the client bank account acknowledgement letter is countersigned by the approved bank, a CASS debt management firm should set out in the space provided in the body of the client bank account acknowledgement letter that it is intended to apply to all present and future accounts which: (a) are titled in a specified way (e.g. with the word ‘client’ in their title); and (b) which possess a common unique identifier or which may be clearly identified by a range of unique identifiers (e.g. all accounts numbered between XXXX1111 and ZZZZ9999). For example, in the space provided in the template letter in ■ CASS 11 Annex 1 which allows a CASS debt management firm to include the account title and a unique identifier for each relevant account, a CASS debt management firm should include a statement to the following effect:

Any account open at present or to be opened in the future which contains the term [‘client’] [insert appropriate abbreviation of the term ‘client’ as agreed and to be reflected in the Approved Bank’s systems] in its title and which may be identified with [the following [insert common unique identifier]][an account number from and including [XXXX1111] to and including [ZZZZ9999]][clearly identify range of unique identifiers].

Signatures and countersignatures

10. A CASS debt management firm should ensure that each client bank account acknowledgement letter is signed and countersigned by all relevant parties and individuals (including where a firm or the approved bank may require more than one signatory).

11. A client bank account acknowledgement letter that is signed or countersigned electronically should not, for that reason alone, result in a breach of the rules in ■ CASS 11.8. However, where electronic signatures are used, a CASS debt management firm should consider whether, taking into account the governing law and choice of competent jurisdiction, it needs to ensure that the electronic signature and the certification by any person of such signature would be admissible as evidence in any legal proceedings in the relevant jurisdiction in relation to any question as to the authenticity or integrity of the signature or any associated communication.

Completing a client bank account acknowledgment letter

12. A CASS debt management firm should use at least the same level of care and diligence when completing a client bank account acknowledgement letter as it would in managing its own commercial agreements.

13. A CASS debt management firm should ensure that each client bank account acknowledgement letter is legible (e.g. any handwritten details should be easy to read), produced on the firm’s own letter-headed paper, dated and addressed to the correct legal entity (e.g. where the approved bank belongs to a group of companies).

14. A CASS debt management firm should also ensure each *client bank account acknowledgement letter* includes all the required information (such as account names and numbers, the parties' full names, addresses and contact information, and each signatory's printed name and title).

15. A CASS debt management firm should similarly ensure that no square brackets remain in the text of each *client bank account acknowledgement letter* (e.g. after having removed or included square bracketed text, as appropriate, or having replaced square bracketed and italicised text with the required information as indicated in the templates in ■ CASS 11 Annex 1) and that each page of the letter is numbered.

16. A CASS debt management firm should complete a *client bank account acknowledgement letter* so that no part of the letter can be easily altered (e.g. the letter should be signed in ink rather than pencil).

17. In respect of the *client bank account acknowledgement letter's* governing law and choice of competent jurisdiction (see paragraphs (l) and (m) of the template *client bank account acknowledgement letters*), a CASS debt management firm should agree with the approved bank and reflect in the letter that the laws of a particular jurisdiction will govern the *client bank account acknowledgement letter* and that the courts of that same jurisdiction will have jurisdiction to settle any disputes arising out of, or in connection with, the *client bank account acknowledgement letter*, its subject matter or formation.

18. If a CASS debt management firm does not, in any *client bank account acknowledgement letter*, utilise the governing law and choice of competent jurisdiction that is the same as either or both:

- (a) the laws of the jurisdiction under which either the *firm* or the relevant *approved bank* are organised; or
- (b) as is found in the underlying agreement/s (e.g. banking services agreement) with the relevant *approved bank*;

then the CASS debt management firm should consider whether it is at risk of breaching either ■ CASS 11.8.4 R (3) or, if it is a CASS large debt management firm, ■ CASS 11.7.2 R.

### Authorised signatories

19. A CASS debt management firm is required under ■ CASS 11.8.7 R to use reasonable endeavours to ensure that any individual that has countersigned a *client bank account acknowledgement letter* returned to the *firm* was authorised to countersign the letter on behalf of the relevant *approved bank*.

20. If an individual that has countersigned a *client bank account acknowledgement letter* does not provide the CASS debt management firm with sufficient evidence of his/her authority to do so then the CASS debt management firm is expected to make appropriate enquiries to satisfy itself of that individual's authority.

21. Evidence of an individual's authority to countersign a *client bank account acknowledgement letter* may include a copy of the *approved bank's* list of authorised signatories, a duly executed power of attorney, use of a company seal or bank stamp, and/or material verifying the title or position of the individual countersigning the *client bank account acknowledgement letter*.

22. A CASS debt management firm should ensure it obtains at least the same level of assurance over the authority of an individual to countersign the *client bank account acknowledgement letter* as the *firm* would seek when managing its own commercial arrangements.

### Third party administrators

23. If a *CASS debt management firm* uses a third party administrator (TPA) to carry out the administrative tasks of drafting, sending and processing a *client bank account acknowledgement letter*, the text "[Signed by **[Name of Third Party Administrator]** on behalf of **[CASS debt management firm]**]" should be inserted to confirm that the *client bank account acknowledgement letter* was signed by the TPA on behalf of the *CASS debt management firm*.

24. In these circumstances, the *CASS debt management firm* should first provide the TPA with the requisite authority (such as a power of attorney) before the TPA will be able to sign the *client bank account acknowledgement letter* on the *CASS debt management firm's* behalf. A *CASS debt management firm* should also ensure that the *client bank account acknowledgement letter* continues to be drafted on letter-headed paper belonging to the *CASS debt management firm*.

### Client bank accounts

25. A *CASS debt management firm* must ensure that each of its *client bank accounts* follows the naming conventions prescribed in the *Glossary*. This includes ensuring that all *client bank accounts* include the term 'client' in their title or an appropriate abbreviation in circumstances where this is permitted by the *Glossary* definition.

26. All references to the term "Client Bank Account[s]" in a *client bank account acknowledgement letter* should also be made consistently in either the singular or plural, as appropriate.