Chapter 5

Client money: insurance distribution activity
5.5 Segregation and the operation of client money accounts

Application

5.5.1 R Unless otherwise stated each of the provisions in CASS 5.5 applies to firms which are acting in accordance with CASS 5.3 (Statutory trust) or CASS 5.4 (Non-statutory trust).

5.5.2 G One purpose of CASS 5.5 is to ensure that, unless otherwise permitted, client money is kept separate from the firm’s own money. Segregation, in the event of a firm’s failure, is important for the effective operation of the trust that is created to protect client money. The aim is to clarify the difference between client money and general creditors’ entitlements in the event of the failure of the firm.

Requirement to segregate

5.5.3 R A firm must, except to the extent permitted by CASS 5.5, hold client money separate from the firm’s money.

Money due to a client from a firm

5.5.4 R If a firm is liable to pay money to a client, it must as soon as possible, and no later than one business day after the money is due and payable:

1. pay it into a client bank account, in accordance with CASS 5.5.5 R; or
2. pay it to, or to the order of, the client.

Segregation

5.5.5 R A firm must segregate client money by either:

1. paying it as soon as is practicable into a client bank account; or
2. paying it out in accordance with CASS 5.5.80 R.

5.5.6 G The FCA expects that in most circumstances it will be practicable for a firm to pay client money into a client bank account by not later than the next business day after receipt.
Where an insurance transaction involves more than one firm acting in a chain such that for example money is transferred from a "producing" broker who has received client money from a consumer to an intermediate broker and thereafter to an insurance undertaking, each broker firm will owe obligations to its immediate client to segregate client money which it receives (in this example the producing broker in relation to the consumer and the intermediate broker in relation to the producing broker). A firm which allows a third party broker to hold or control client money will not thereby be relieved of its fiduciary obligations (see □ CASS 5.5.34 R).

A firm may segregate client money in a different currency from that of receipt. If it does so, the firm must ensure that the amount held is adjusted at intervals of not more than twenty five business days to an amount at least equal to the original currency amount (or the currency in which the firm has its liability to its clients, if different), translated at the previous day's closing spot exchange rate.

A firm must not hold money other than client money in a client bank account unless it is:

1. a minimum sum required to open the account, or to keep it open; or
2. money temporarily in the account in accordance with □ CASS 5.5.16 R (Withdrawal of commission and mixed remittance); or
3. interest credited to the account which exceeds the amount due to clients as interest and has not yet been withdrawn by the firm.

If it is prudent to do so to ensure that client money is protected (and provided that doing so would otherwise be in accordance with □ CASS 5.5.63 R (1)(b)(ii)), a firm may pay into, or maintain in, a client bank account money of its own, and that money will then become client money for the purposes of □ CASS 5 and the client money (insurance) distribution rules.

A firm, when acting in accordance with □ CASS 5.3 (statutory trust), must ensure that the total amount of client money held for each client in any of the firm's client money bank accounts is positive and that no payment is made from any such account for the benefit of a client unless the client has provided the firm with cleared funds to enable the payment to be made.

When a firm acts in accordance with □ CASS 5.3 (Statutory trust) it should not make a payment from the client bank account unless it is satisfied on reasonable grounds that the client has provided it with cleared funds. Accordingly, a firm should normally allow a reasonable period of time for cheques to clear. If a withdrawal is made and the client's cheque is subsequently dishonoured it will be the firm's responsibility to make good the shortfall in the account as quickly as possible (and without delay whilst a cheque is re-presented).

If client money is received by the firm in the form of an automated transfer, the firm must take reasonable steps to ensure that:
A firm can hold client money in either a general client bank account (CASS 5.38 R) or a designated client bank account (CASS 5.39 R). A firm holds all client money in general client bank accounts for its clients as part of a common pool of money so those particular clients do not have a claim against a specific sum in a specific account; they only have a claim to the client money in general. A firm holds client money in designated client bank accounts for those clients who requested that their client money be part of a specific pool of money, so those particular clients do have a claim against a specific sum in a specific account; they do not have a claim to the client money in general unless a primary pooling event occurs. If the firm becomes insolvent, and there is (for whatever reason) a shortfall in money held for a client compared with that client’s entitlements, the available funds will be distributed in accordance with the client money (insurance) distribution rules.

Non-statutory trust - segregation of designated investments

5.5.14

(1) A firm which handles client money in accordance with the rules for a non-statutory trust in CASS 5.4 may, to the extent it considers appropriate, but subject to (2), satisfy the requirement to segregate client money by segregating or arranging for the segregation of designated investments with a value at least equivalent to such money as would otherwise have been segregated into a client bank account.

(2) A firm may not segregate designated investments unless it:

(a) takes reasonable steps to ensure that any consumers whose client money interests may be protected by such segregation are aware that the firm may operate such an arrangement and have (whether through its terms of business, client agreements, or otherwise in writing) an adequate opportunity to give their informed consent;

(b) ensures that the terms on which it will segregate designated investments include provision for it to take responsibility for meeting any shortfall in its client money resource which is attributable to falls in the market value of a segregated investment;

(c) provides in the deed referred to in CASS 5.4.6 R for designated investments which it segregates to be held by it on the terms of the non-statutory trust; and

(d) takes reasonable steps to ensure that the segregation is at all times in conformity with the range of permitted investments, general principles and conditions in CASS 5 Annex 1 R.

5.5.15

A firm which takes advantage of CASS 5.14 R will need to consider whether its permission should include the permitted activity of managing investments. If the firm is granted a power to manage with discretion the funds over which it is appointed as trustee under the trust deed required by...
CASS 5.4 then it will be likely to need a permission to manage investments. It is unlikely to need such a permission, however, if it is merely granted a power to invest but the deed stipulates that the funds may only be managed with discretion by another firm (which has the necessary permission). Such an arrangement would not preclude the firm holding client money as trustee from appointing another firm (or firms) as manager and setting an appropriate strategy and overall asset allocation, subject to the limits set out in CASS 5 Ann 1 R. A firm may also need to consider whether it needs a permission to operate a collective investment scheme if any of its clients are to participate in the income or gains arising from the acquisition or disposal of designated investments.

Withdrawal of commission and mixed remittance

5.5.16 R

(1) A firm may draw down commission from the client bank account if:

(a) it has received the premium from the client (or from a third party premium finance provider on the client’s behalf); and

(b) this is consistent with the firm’s terms of business which it maintains with the relevant client and the insurance undertaking to whom the premium will become payable;

and the firm may draw down commission before payment of the premium to the insurance undertaking, provided that the conditions in (a) and (b) are satisfied.

(2) If a firm receives a mixed remittance (that is part client money and part other money), it must:

(a) pay the full sum into a client bank account in accordance with CASS 5.5.5 R; and

(b) pay the money that is not client money out of the client bank account as soon as reasonably practicable and in any event by not later than twenty-five business days after the day on which the remittance is cleared (or, if earlier, when the firm performs the client money calculation in accordance with CASS 5.5.63 R (1)).

5.5.17 G

(1) As soon as commission becomes due to the firm (in accordance with CASS 5.5.16 R (1)) it must be treated as a remittance which must be withdrawn in accordance with CASS 5.5.16 R (2). The procedure required by CASS 5.5.16 R will also apply where money is due and payable to the firm in respect of fees due from clients (whether to the firm or other professionals).

(2) Firms are reminded that money received in accordance with CASS 5.2 must not, except where a firm and an insurance undertaking have (in accordance with CASS 5.1.5A R) agreed otherwise, be kept in a client bank account. Client money received from a third-party premium finance provider should, however, be segregated into a client bank account.

(3) Where a client makes payments of premium to a firm in instalments, CASS 5.5.16 R (1) applies in relation to each instalment.

(4) If a firm is unable to match a remittance with a transaction it may be unable to immediately determine whether the payment comprises a mixed remittance or is client money. In such cases the remittance...
should be treated as *client money* while the *firm* takes steps to match the remittance to a transaction as soon as possible.

**Appointed representatives, field representatives and other agents**

5.5.18 **R**

(1) Subject to (4), a *firm* must in relation to each of its *appointed representatives, field representatives* and other agents comply with

- CASS 5.5.19 R to CASS 5.5.21 R (Immediate segregation) or with
- CASS 5.5.23 R (Periodic segregation and reconciliation).

(2) A *firm* must in relation to each *representative* or other agent keep a record of whether it is complying with CASS 5.5.19 R to CASS 5.5.21 R or with CASS 5.5.23 R.

(3) A *firm* is, but without affecting the application of CASS 5.5.19 R to CASS 5.5.23 R, to be treated as the recipient of *client money* which is received by any of its *appointed representatives, field representatives* or other agents.

(4) Paragraphs (1) to (3) do not apply in relation to an *appointed representative, field representative* or other agent to which (if it were a *firm*) CASS 5.1.4AR (1) or CASS 5.1.4AR (2) would apply, but subject to the *representative* or agent maintaining an account which satisfies the requirements of CASS 5.5.49 R to the extent that the *representative* or agent will hold *client money* on trust or otherwise on behalf of its *clients*.

**Immediate segregation**

5.5.19 **R**

A *firm* must establish and maintain procedures to ensure that *client money* received by its *appointed representatives, field representatives, or other agents* of the *firm* is:

(1) paid into a *client bank account* of the *firm* in accordance with
- CASS 5.5.5 R; or

(2) forwarded to the *firm*, or in the case of a *field representative* forwarded to a specified business address of the *firm*, so as to ensure that the *money* arrives at the specified business address by the close of the third *business day*.

5.5.20 **G**

For the purposes of CASS 5.5.19 R, the *client money* received on *business day* one should be forwarded to the *firm* or specified business address of the *firm* no later than the next *business day* after receipt (*business day* two) in order for it to reach that *firm* or specified business address by the close of the third *business day*. Procedures requiring the *client money* to be sent to the *firm* or the specified business address of the *firm* by first class post no later than the next *business day* after receipt would meet the requirements of CASS 5.5.19 R.

5.5.21 **R**

If *client money* is received in accordance with CASS 5.5.19 R, the *firm* must ensure that its *appointed representatives, field representatives* or other agents keep *client money* (whether in the form of *premiums*, *claims money* or *premium refunds*) separately identifiable from any other *money* (including
that of the firm) until the client money is paid into a client bank account or sent to the firm.

5.5.22 A firm which acts in accordance with CASS 5.5.19 R to CASS 5.5.21 R need not comply with CASS 5.5.23 R.

Periodic segregation and reconciliation

5.5.23 (1) A firm must, on a regular basis, and at reasonable intervals, ensure that it holds in its client bank account an amount which (in addition to any other amount which it is required by these rules to hold) is not less than the amount which it reasonably estimates to be the aggregate of the amounts held at any time by its appointed representatives, field representatives, and other agents.

(2) A firm must, not later than ten business days following the expiry of each period in (1):
   (a) carry out, in relation to each such representative or agent, a reconciliation of the amount paid by the firm into its client bank account with the amount of client money actually received and held by the representative or other agent; and
   (b) make a corresponding payment into, or withdrawal from, the account.

5.5.24 (1) CASS 5.5.23 R allows a firm with appointed representatives, field representatives and other agents to avoid the need for the representative to forward client money on a daily basis but instead requires a firm to segregate into its client money bank account amounts which it reasonably estimates to be sufficient to cover the amount of client money which the firm expects its representatives or agents to receive and hold over a given period. At the expiry of each such period, the firm must obtain information about the actual amount of client money received and held by its representatives so that it can reconcile the amount of client money it has segregated with the amounts actually received and held by its representatives and agents. The frequency at which this reconciliation is to be performed is not prescribed but it must be at regular and reasonable intervals having regard to the nature and frequency of the insurance business carried on by its representatives and agents. For example, a period of six months might be appropriate for a representative which conducts business involving the receipt of premiums only infrequently whilst for other representatives a periodic reconciliation at monthly intervals (or less) may be appropriate.

(2) Where a firm operates on the basis of CASS 5.5.23 R, the money which is segregated into its client bank account is client money and will be available to meet any obligations owed to the clients of its representatives who for this purpose are treated as the firm’s clients.

5.5.25 A firm which acts in accordance with CASS 5.5.23 R need not comply with CASS 5.5.19 R to CASS 5.5.21 R.
### Client entitlements

**5.5.26 R** A firm must take reasonable steps to ensure that it is notified promptly of any receipt of client money in the form of client entitlements.

**5.5.27 G** The 'entitlements' mentioned in ■ CASS 5.5.26 R refer to any kind of miscellaneous payment which the firm receives on behalf of a client and which are due to be paid to the client.

**5.5.28 R** When a firm receives a client entitlement on behalf of a client, it must pay any part of it which is client money:

1. For client entitlements received in the United Kingdom, into a client bank account in accordance with ■ CASS 5.5.5 R; or

2. For client entitlements received outside the United Kingdom, into any bank account operated by the firm, provided that such client money is:
   1. Paid to, or in accordance with, the instructions of the client concerned; or
   2. Paid into a client bank account in accordance with ■ CASS 5.5.5 R (1), as soon as possible but no later than five business days after the firm is notified of its receipt.

**5.5.29 R** A firm must take reasonable steps to ensure that a client entitlement which is client money is allocated within a reasonable period of time after notification of receipt.

### Interest and investment returns

**5.5.30 R** (1) In relation to consumers, a firm must, subject to (2), take reasonable steps to ensure that its terms of business or other client agreements adequately explain, and where necessary obtain a client's informed consent to, the treatment of interest and, if applicable, investment returns, derived from its holding of client money and any segregated designated investments.

(2) In respect of interest earned on client bank accounts, (1) does not apply if a firm has reasonable ground to be satisfied that in relation to insurance distribution activities carried on with or for a consumer the amount of interest earned will be not more than £20 per transaction.

**5.5.31 G** If no interest is payable to a consumer, that fact should be separately identified in the firm's client agreement or terms of business.

**5.5.32 G** If a firm outlines its policy on its payment of interest, it need not necessarily disclose the actual rates prevailing at any particular time; the firm should disclose the terms, for example, LIBOR plus or minus 'x' percentage points.
Transfer of client money to a third party

5.5.33 A firm must comply with when it transfers client money to another person without discharging its fiduciary duty owed to that client. Such circumstances arise when, for example, a firm passes client money to another broker for the purposes of the client's transaction being effected. A firm can only discharge itself from its fiduciary duty by acting in accordance with, and in the circumstances permitted by, CASS 5.5.80 R.

5.5.34 A firm may allow another person, such as another broker to hold or control client money, but only if:

1. the firm transfers the client money for the purpose of a transaction for a client through or with that person; and
2. in the case of a consumer, that customer has been notified (whether through a client agreement, terms of business, or otherwise in writing) that the client money may be transferred to another person.

5.5.35 In relation to the notification required by CASS 5.5.34 R (2), there is no need for a firm to make a separate disclosure in relation to each transfer made.

5.5.36 A firm should not hold excess client money with another broker. It should be held in a client bank account.

Client bank accounts

5.5.37 The FCA generally requires a firm to place client money in a client bank account with an approved bank. However, a firm which is an approved bank must not (subject to CASS 5.1.1 R (2)(e)) hold client money in an account with itself.

5.5.38 A firm must ensure that client money is held in a client bank account at one or more approved banks.

5.5.39 A firm may open one or more client bank accounts in the form of a designated client bank account. Characteristics of these accounts are that:

1. the account holds money of one or more clients;
2. the account includes in its title the word 'designated';
3. the clients whose money is in the account have each consented in writing to the use of the bank with which the client money is to be held; and
4. in the event of the failure of that bank, the account is not pooled with any other type of account unless a primary pooling event occurs.
(1) A firm may operate as many client accounts as it wishes.

(2) A firm is not obliged to offer its clients the facility of a designated client bank account.

(3) Where a firm holds money in a designated client bank account, the effect upon either:
   (a) the failure of a bank where any other client bank account is held; or
   (b) the failure of a third party to whom money has been transferred out of any other client bank account in accordance with CASS 5.5.34 R;

   (each of which is a secondary pooling event) is that money held in the designated client bank account is not pooled with money held in any other account. Accordingly clients whose money is held in a designated client bank account will not share in any shortfall resulting from a failure of the type described in (a) or (b).

(4) Where a firm holds client money in a designated client bank account, the effect upon the failure of the firm (which is a primary pooling event) is that money held in the designated client bank account is pooled with money in every other client bank account of the firm. Accordingly, clients whose money is held in a designated client bank account will share in any shortfall resulting from a failure of the firm.

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A firm may hold client money with a bank that is not an approved bank if all the following conditions are met:

(1) the client money relates to one or more insurance transactions which are subject to the law or market practice of a jurisdiction outside the United Kingdom;

(2) because of the applicable law or market practice of that overseas jurisdiction, it is not possible to hold the client money in a client bank account with an approved bank;

(3) the firm holds the money with such a bank for no longer than is necessary to effect the transactions;

(4) the firm notifies each relevant client and has, in relation to a consumer, a client agreement, or terms of business which adequately explain that:
   (a) client money will not be held with an approved bank;
   (b) in such circumstances, the legal and regulatory regime applying to the bank with which the client money is held will be different from that of the United Kingdom and, in the event of a failure of the bank, the client money may be treated differently from the treatment which would apply if the client money were held by an approved bank in the United Kingdom; and
   (c) if it is the case, the particular bank has not accepted that it has no right of set-off or counterclaim against money held in a client bank account, in respect of any sum owed on any other account.
of the firm, notwithstanding the firm’s request to the bank as required by ■ CASS 5.5.49; and

(5) the client money is held in a designated bank account.

A firm’s selection of a bank

5.5.42 G A firm owes a duty of care to a client when it decides where to place client money. The review required by ■ CASS 5.5.43 R is intended to ensure that the risks inherent in placing client money with a bank are minimised or appropriately diversified by requiring a firm to consider carefully the bank or banks with which it chooses to place client money. For example, a firm which is likely only to hold relatively modest amounts of client money will be likely to be able to satisfy this requirement if it selects an authorised UK clearing bank.

5.5.43 R Before a firm opens a client bank account and as often as is appropriate on a continuing basis (and no less than once in each financial year), it must take reasonable steps to establish that the bank is appropriate for that purpose.

5.5.44 G A firm should consider diversifying placements of client money with more than one bank where the amounts are, for example, of sufficient size to warrant such diversification.

5.5.45 G When considering where to place client money and to determine the frequency of the appropriateness test under ■ CASS 5.5.43 R, a firm should consider taking into account, together with any other relevant matters:

(1) the capital of the bank;

(2) the amount of client money placed, as a proportion of the bank’s capital and deposits;

(3) the credit rating of the bank (if available); and

(4) to the extent that the information is available, the level of risk in the investment and loan activities undertaken by the bank and its affiliated companies.

5.5.46 G A firm will be expected to perform due diligence when opening a client bank account with a bank that is authorised by an EEA regulator. Any continuing assessment of that bank may be restricted to verification that it remains authorised by an EEA regulator.

Group banks

5.5.47 R Subject to ■ CASS 5.5.41 R, a firm that holds or intends to hold client money with a bank which is in the same group as the firm must:

(1) undertake a continuous review in relation to that bank which is at least as rigorous as the review of any bank which is not in the same group, in order to ensure that the decision to use a group bank is appropriate for the client;
(2) disclose in writing to its client at the outset of the client relationship (whether by way of a client agreement, terms of business or otherwise in writing) or, if later, not less than 20 business days before it begins to hold client money of that client with that bank:

(a) that it is holding or intends to hold client money with a bank in the same group;

(b) the identity of the bank concerned; and

(c) that the client may choose not to have his money placed with such a bank.

5.5.48 If a client has notified a firm in writing that he does not wish his money to be held with a bank in the same group as the firm, the firm must either:

(1) place that client money in a client bank account with another bank in accordance with CASS 5.5.38 R; or

(2) return that client money to, or pay it to the order of, the client.

Notification and acknowledgement of trust (banks)

5.5.49 When a firm opens a client bank account, the firm must give or have given written notice to the bank requesting the bank to acknowledge to it in writing:

(1) that all money standing to the credit of the account is held by the firm as trustee (or if relevant in Scotland, as agent) and that the bank is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim against money in that account in respect of any sum owed to it on any other account of the firm; and

(2) that the title of the account sufficiently distinguishes that account from any account containing money that belongs to the firm, and is in the form requested by the firm.

5.5.50 In the case of a client bank account in the United Kingdom, if the bank does not provide the acknowledgement referred to in CASS 5.5.49 R within 20 business days after the firm dispatched the notice, the firm must withdraw all money standing to the credit of the account and deposit it in a client bank account with another bank as soon as possible.

5.5.51 In the case of a client bank account outside the United Kingdom, if the bank does not provide the acknowledgement referred to in CASS 5.5.49 R within 20 business days after the firm dispatched the notice, the firm must notify the client of this fact as set out in CASS 5.5.53 R.

5.5.52 Firms are reminded of the provisions of CASS 5.5.41 R (4), which sets out the notification and consents required when using a bank that is not an approved bank.
Notification to clients: use of an approved bank outside the United Kingdom

5.53 A firm must not hold, for a consumer, client money in a client bank account outside the United Kingdom, unless the firm has previously disclosed to the consumer (whether in its terms of business, client agreement or otherwise in writing):

(1) that his money may be deposited in a client bank account outside the United Kingdom but that the client may notify the firm that he does not wish his money to be held in a particular jurisdiction;

(2) that in such circumstances, the legal and regulatory regime applying to the approved bank will be different from that of the United Kingdom and, in the event of a failure of the bank, his money may be treated in a different manner from that which would apply if the client money were held by a bank in the United Kingdom; and

(3) if it is the case, that a particular bank has not accepted that it has no right of set-off or counterclaim against money held in a client bank account in respect of any sum owed on any other account of the firm, notwithstanding the firm’s request to the bank as required by CASS 5.5.49 R.

There is no need for a firm to make a separate disclosure under CASS 5.5.53 R (1) and CASS 5.5.53 R (2) in relation to each jurisdiction.

5.54 There is no need for a firm to make a separate disclosure under CASS 5.5.53 R (1) and CASS 5.5.53 R (2) in relation to each jurisdiction.

5.55 Firms are reminded of the provisions of CASS 5.5.41 R (4), which sets out the notification and consents required when using a bank that is not an approved bank.

5.56 If a client has notified a firm in writing before entering into a transaction that client money is not to be held in a particular jurisdiction, the firm must either:

(1) hold the client money in a client bank account in a jurisdiction to which the client has not objected; or

(2) return the client money to, or to the order of, the client.

5.57 Firms are reminded of the provisions of CASS 5.5.41 R (4), which sets out the notification and consents required when using a bank that is not an approved bank.

Notification to consumers: use of broker or settlement agent outside the United Kingdom

5.58 A firm must not undertake any transaction for a consumer that involves client money being passed to another broker or settlement agent located in a jurisdiction outside the United Kingdom, unless the firm has previously disclosed to the consumer (whether in its terms of business, client agreement or otherwise in writing):
(1) that his client money may be passed to a person outside the United Kingdom but the client may notify the firm that he does not wish his money to be passed to a money in a particular jurisdiction; and

(2) that, in such circumstances, the legal and regulatory regime applying to the broker or settlement agent will be different from that of the United Kingdom and, in the event of a failure of the broker or settlement agent, this money may be treated in a different manner from that which would apply if the money were held by a broker or settlement agent in the United Kingdom.

5.5.59 G There is no need for a firm to make a separate disclosure under CASS 5.5.58 R in relation to each jurisdiction.

5.5.60 R If a client has notified a firm before entering into a transaction that he does not wish his money to be passed to another broker or settlement agent located in a particular jurisdiction, the firm must either:

(1) hold the client money in a client bank account in the United Kingdom or a jurisdiction to which the money has not objected and pay its own money to the firm's own account with the broker, agent or counterparty; or

(2) return the money to, or to the order of, the client.

Notification to the FCA: failure of a bank, broker or settlement agent

5.5.61 R On the failure of a third party with which client money is held, a firm must notify the FCA:

(1) as soon as it becomes aware, of the failure of any bank, other broker or settlement agent or other entity with which it has placed, or to which it has passed, client money; and

(2) as soon as reasonably practical, whether it intends to make good any shortfall that has arisen or may arise and of the amounts involved.

Client money calculation and reconciliation

5.5.62 G (1) In order that a firm may check that it has sufficient money segregated in its client bank account (and held by third parties) to meet its obligations to clients it is required periodically to calculate the amount which should be segregated (the client money requirement) and to compare this with the amount shown as its client money resource. This calculation is, in the first instance, based upon the firm's accounting records and is followed by a reconciliation with its banking records. A firm is required to make a payment into the client bank account if there is a shortfall or to remove any money which is not required to meet the firm's obligations.

(2) For the purpose of calculating its client money requirement two alternative calculation methods are permitted, but a firm must use the same method in relation to CASS 5.3 and CASS 5.4. The first
refers to individual *client* cash balances; the second to aggregate amounts of *client money* recorded on a *firm* business ledgers.

5.5.63  
(1) A *firm* must, as often as is necessary to ensure the accuracy of its records and at least at intervals of not more than 25 *business days*:

   (a) check whether its *client money* resource, as determined by ■ CASS 5.5.65 R on the previous *business day*, was at least equal to the *client money* requirement, as determined by ■ CASS 5.5.66 R or ■ CASS 5.5.68 R, as at the close of business on that day; and

   (b) ensure that:

      (i) any *shortfall* is paid into a *client bank account* by the close of business on the day the calculation is performed; or

      (ii) any excess is withdrawn within the same time period unless ■ CASS 5.5.9 R or ■ CASS 5.5.10 R applies to the extent that the *firm* is satisfied on reasonable grounds that it is prudent to maintain a positive margin to ensure the calculation in (a) is satisfied having regard to any unreconciled items in its business ledgers as at the date on which the calculations are performed; and

   (c) include in any calculation of its *client money* requirement (whether calculated in accordance with ■ CASS 5.5.66 R or ■ CASS 5.5.68 R) any amounts attributable to *client money* received by its *appointed representatives*, *field representatives* or other agents and which, as at the date of calculation, it is required to segregate in accordance with ■ CASS 5.5.19 R.

(2) A *firm* must within ten *business days* of the calculation in (a) reconcile the balance on each *client bank account* as recorded by the *firm* with the balance on that account as set out in the statement or other form of confirmation used by the bank with which that account is held.

(3) When any discrepancy arises as a result of the reconciliation carried out in (2), the *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 those of the *firm*.

(4) While a *firm* is unable to resolve a difference arising from a reconciliation, and one record or a set of records examined by the *firm* during its reconciliation indicates that there is a need to have a 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 either pay its own *money* into a relevant account or make a withdrawal of any excess.

5.5.64  
A *firm* must keep a record of whether it calculates its *client money* requirement in accordance with ■ CASS 5.5.66 R or ■ CASS 5.5.68 R and may only use one method during each annual accounting period (which method must be the same in relation to both ■ CASS 5.3 and ■ CASS 5.4).
The client money resource, for the purposes of CASS 5.5.63 R (1)(a), is:

(1) the aggregate of the balances on the firm’s client money bank accounts, as at the close of business on the previous business day and, if held in accordance with CASS 5.4, designated investments (valued on a prudent and consistent basis) together with client money held by a third party in accordance with CASS 5.5.34 R; and

(2) (but only if the firm is comparing the client money resource with its client’s money (accruals) requirement in accordance with CASS 5.5.68 R) to the extent that client money is held in accordance with CASS 5.3 (statutory trust), insurance debtors (which in this case cannot include pre-funded items); and

(3) (but only if the firm is comparing the client money resource with its client’s money (accruals) requirement in accordance with CASS 5.5.68 R) to the extent that client money is held in accordance with CASS 5.4 (non-statutory trust):
   (a) all insurance debtors (including pre-funded items whether in respect of advance premiums, claims, premium refunds or otherwise) shown in the firm’s business ledgers as amounts due from clients, insurance undertakings and other persons, such debts valued on a prudent and consistent basis to the extent required to meet any shortfall of the client money resource compared with the firm’s client money requirement; and
   (b) the amount of any letter of credit or unconditional guarantee provided by an approved bank and held on the terms of the trust (or, in Scotland, agency), limited to:
      (i) the maximum sum payable by the approved bank under the letter of credit or guarantee; or
      (ii) if less, the amount which would, apart from the benefit of the letter of credit or guarantee, be the shortfall of the client money resource compared with the client money requirement under CASS 5.5.66 R or CASS 5.5.68 R.

But a firm may treat a transaction with an insurance undertaking which is not a UK domestic firm as complete, and accordingly may (but only for the purposes of the calculation in (1)) disregard any unreconciled items of client money transferred to an intermediate broker relating to such a transaction, if:

(4) it has taken reasonable steps to ascertain whether the transaction is complete; and

(5) it has no reason to consider the transaction has not been completed; and

(6) a period of at least 12 months has elapsed since the money was transferred to the intermediate broker for the purpose of the transaction.
Client money (client balance) requirement

5.5.66 A firm’s client money (client balance) requirement is the sum of, for all clients, the individual client balances calculated in accordance with CASS 5.5.67 R but excluding any individual balances which are negative (that is, uncleared client funds).

5.5.67 The individual client balance for each client must be calculated as follows:

- (1) the amount paid by a client to the firm (to include all premiums); plus
- (2) the amount due to the client (to include all claims and premium refunds); plus
- (3) the amount of any interest or investment returns due to the client;
- (4) less the amount paid to insurance undertakings for the benefit of the client (to include all premiums and commission due to itself) (i.e. commissions that are due but have not yet been removed from the client account);
- (5) less the amount paid by the firm to the client (to include all claims and premium refunds);

and where the individual client balance is found by the sum ((1) + (2) + (3)) - ((4) + (5)).

Client money (accruals) requirement

5.5.68 A firm’s client money (accruals) requirement is the sum of the following:

- (1) all insurance creditors shown in the firm’s business ledgers as amounts due to insurance undertakings, clients and other persons; plus
- (2) unearned commission being the amount of commission shown as accrued (but not shown as due and payable) as at the date of the calculation (a prudent estimate must be used if the firm is unable to produce an exact figure at the date of the calculation).

5.5.69 A firm which calculates its client money requirement on the preceding basis must in addition and within a reasonable period be able to match its client money resource to its requirement by reference to individual clients (with such matching being achieved for the majority of its clients and transactions).

[deleted]
Failure to perform calculations or reconciliation

5.5.76  A firm must notify the FCA immediately if it is unable to, or does not, perform the calculation required by CASS 5.5.63 R (1).

5.5.77  A firm must notify the FCA immediately it becomes aware that it may not be able to make good any shortfall identified by CASS 5.5.63 R (1) by the close of business on the day the calculation is performed and if applicable when the reconciliation is completed.

Discharge of fiduciary duty

5.5.79  The purpose of CASS 5.5.80 R to CASS 5.5.83 R is to set out those situations in which a firm will have fulfilled its contractual and fiduciary obligations in relation to any client money held for or on behalf of its client, or in relation to the firm’s ability to require repayment of that money from a third party.

5.5.80  Money ceases to be client money if it is paid:

(1) to the client, or a duly authorised representative of the client; or

(2) to a third party on the instruction of or with the specific consent of the client, but not if it is transferred to a third party in the course of effecting a transaction, in accordance with CASS 5.5.34 R; or

(3) into a bank account of the client (not being an account which is also in the name of the firm); or

(4) to the firm itself, when it is due and payable to the firm in accordance with CASS 5.1.5 R (1); or

(5) to the firm itself, when it is an excess in the client bank account as set out in CASS 5.5.63 R (1)(b)(ii).

5.5.81  (1) A firm which pays professional fees (for example to a loss adjuster or valuer) on behalf of a client may do so in accordance with CASS 5.5.80 R (2) where this is done on the instruction of or with the consent of the client.
(2) When a firm wishes to transfer client money balances to a third party in the course of transferring its business to another firm, it should do so in compliance with R5.5.82 and a transferee firm will come under an obligation to treat any client money so transferred in accordance with these rules.

(3) Firms are reminded of their obligation, when transferring money to third parties in accordance with R5.5.83, to use appropriate skill, care and judgment in their selection of third parties in order to ensure adequate protection of client money.

(4) Firms are reminded that, in order to calculate their client money resource in accordance with R5.5.84, to R5.5.65 R, they will need to have systems in place to produce an accurate accounting record showing how much client money is being held by third parties at any point in time. For the purposes of R5.5.63 R to R5.5.65 R, however, a firm must assume that monies remain at an intermediate broker awaiting completion of the transaction unless it has received confirmation that the transaction has been completed.

5.5.82  
When a firm draws a cheque or other payable order to discharge its fiduciary duty under R5.5.80 R, it must continue to treat the sum concerned as client money until the cheque or order is presented and paid by the bank.

5.5.83  
For the purposes of R5.5.1.5 R, if a firm makes a payment to, or on the instructions of, a client, from an account other than a client bank account, until that payment has cleared, no equivalent sum will become due and payable to the firm or may be withdrawn from a client bank account by way of reimbursement.

Records

5.5.84  
A firm must ensure that proper records, sufficient to show and explain the firm’s transactions and commitments in respect of its client money, are made and retained for a period of three years after they were made.