Chapter 7

Client money rules

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7.10   Application and purpose

7.10.1   **R**   This chapter applies to a *firm* that receives *money* from or holds *money* for, or on behalf of, a *client* in the course of, or in connection with, its:

   (1) MiFID business; and/or

   (2) designated investment business; and/or

   (3) stocks and shares ISA business; and/or

   (4) innovative finance ISA business; and/or

      lifetime ISA business,

unless otherwise specified in this section.

7.10.2   **G**   A *firm* is reminded that when ■ CASS 7.10.1 R applies it should treat *client money* in an appropriate manner so that, for example:

   (1) if it holds *client money* in a *client bank account* that account is held in the *firm*'s name in accordance with ■ CASS 7.13.13 R;

   (2) if it allows another *person* to hold *client money* this is effected under ■ CASS 7.14; and

   (3) its *internal client money reconciliation* takes into account any *client equity balance* relating to its *margined transaction requirements*.

Opt-in to the client money rules

7.10.3   **R**   (1) A *firm* that receives or holds *money* to which this chapter applies in relation to:

      (a) its *MiFID business*; or

      (b) its *MiFID business* and its *designated investment business* which is not *MiFID business*;

      and holds *money* in respect of which ■ CASS 5 applies, may elect to comply with the provisions of this chapter in respect of all such *money* and if it does so, this chapter applies as if all such *money* were *money* that the *firm* receives and holds in the course of, or in connection with, its *MiFID business*.

   (2) A *firm* that receives or holds *money* to which this chapter applies solely in relation to its *designated investment business* which is not *MiFID business* and receives or holds *money* in respect of which the *insurance client money chapter* applies, may elect to comply with the

provisions of this chapter in respect of all such *money* and if it does so, this chapter applies as if all such *money* were *money* that the *firm* receives and holds in the course of or in connection with its *designated investment business*.

(2A) (a) A *firm* may elect to comply with all the provisions of this chapter for *money* that it receives or holds in respect of an *ISA* that only contains a *cash deposit ISA*.

(b) Where a *firm* makes an election under (a), this chapter applies to it in the same way that it applies to a *firm* who receives and holds *money* in the course of or in connection with its *MIFID business*.

(3) A *firm* must make and retain a written record of any election it makes under this *rule*, including the date from which the election is to be effective. The *firm* must make the record on the date it makes the election and must keep it for a period of five years after ceasing to use it.

(4) This *rule* is subject to ■ CASS 1.2.11 R.

7.10.3A [R] Where a *firm* opts into this chapter under ■ CASS 7.10.3 R (2A) it must notify *clients* for whom it holds the opted-in *money* that it is holding their *money* in accordance with the *client money rules*.

7.10.4 [G] *Firms* are reminded that, under ■ CASS 1.2.11 R, they must not keep *money* in respect of which the *client money chapter* applies in the same *client bank account* or *client transaction account* as *money* for which the *insurance client money chapter* applies.

7.10.5 [G] The opt-in to the *client money rules* under ■ CASS 7.10.3R does not apply in respect of *money* that a *firm* holds outside of either the:

(1) scope of the *insurance client money chapter*; or

(2) relevant *cash deposit ISA* wrapper;

as the case may be.

7.10.6 [G] If a *firm* has opted to comply with this chapter under ■ CASS 7.10.3R, the *insurance client money chapter* will have no application to the activities to which the election applies.

7.10.7 [G] (1) A *firm* that is only subject to the *insurance client money chapter* may not opt to comply with this chapter under either or both ■ CASS 7.10.3 R (1) and ■ CASS 7.10.3 R (2).

(2) Under ■ CASS 7.10.3 R (2A), a *firm* may opt to comply with this chapter regardless of whether it is otherwise subject to the *client money rules*.

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Loan-based crowdfunding

7.10.7A **R** (1) If both the conditions in (a) and (b) below are met in respect of a *firm*, or the *firm* reasonably expects that they will all be met in the future, then the *firm* has the option to elect to comply with this chapter for all of the *money* described in those conditions:

(a) the *firm* receives or holds *money* for one or more *persons* in the course of, or in connection with, the *firm's* activity of *operating an electronic system in relation to non-P2P agreements*; and

(b) those *persons* are customers of the *firm* in their capacity as lenders under *non-P2P agreements* or prospective lenders under *non-P2P agreements*.

(2) A *firm* can only make the election under (1) by informing the *FCA* in writing of the election at least one *month* before the date on which it intends to start holding the *money* in accordance with the *client money rules* ("the effective date").

(3) The communication in (2) must specify the effective date.

(4) The *firm* may change the effective date after it has made the communication in (2) provided that:

(a) it informs the *FCA* in writing before the new effective date; and

(b) the new effective date is not less than one *month* after the date of the communication in (2).

7.10.7B **R** (1) When a *firm* makes an election under ■ CASS 7.10.7AR it must write to any customer ("C") with whom it has agreed to provide *relevant electronic lending services* in C's capacity as a lender or prospective lender, informing C at least one *month* before it will start to hold the *money* in accordance with the *client money rules*:

(a) that all the *money* it holds in the course of, or in connection with, *operating an electronic system in relation to non-P2P agreements* for lenders and prospective lenders under *non-P2P agreements* will be treated in accordance with the *client money rules*; and

(b) of the date on which this will start.

(2) The *firm* must also write to any customer ("C") with whom, following the *firm's* election, it agrees to provide *relevant electronic lending services* in C's capacity as a lender or prospective lender.

(a) The *firm* must make this communication in advance of it receiving any *money* from or on behalf of C.

(b) The communication must inform C that all the *money* the *firm* holds in the course of, or in connection with, *operating an electronic system in relation to non-P2P agreements* for lenders and prospective lenders under *non-P2P agreements* will be treated in accordance with the *client money rules* from the date specified under (1)(b) or, if that date has passed, that this will be the case from the time of the communication onwards.

7.10.7C R Once an election made by a *firm* under ■ CASS 7.10.7AR becomes effective, and until it ceases to be effective:

(1) the *firm* must treat all the *money* referred to under ■ CASS 7.10.7AR(1) in accordance with the election; and

(2) for the purposes of (1), this chapter applies to the *firm* in the same way that it applies to a *firm* that receives and holds *money* in the course of or in connection with its *designated investment business*, except that:

(a) ■ CASS 7.10.10R will not apply to the *money* referred to under ■ CASS 7.10.7AR(1); and

(b) "*client*" for the purposes of *CASS* and *rules* and *guidance* related to *CASS* and their application to the *firm* includes customers of the *firm* in their capacity as lenders or prospective lenders under *non-P2P agreements*.

7.10.7D R If a *firm* that has made an election under ■ CASS 7.10.7AR subsequently decides to cancel that election:

(1) it can only do so by writing to the *FCA*, at least one *month* before the date the election ceases to be effective;

(2) it must write to any customer with whom, as at the time of the cancellation, it has agreed to *operate an electronic system in relation to non-P2P agreements* in their capacity as a lender or prospective lender, informing them at least one *month* before the date the election ceases to be effective:

(a) of the extent to which it will cease to hold their *money* in accordance with the *client money rules*; and

(b) of the date from which those changes will take effect; and

(3) it must write to any customer ("C") with whom, following the *firm's* decision to cancel the election but before the election ceases to be effective, it agrees to *operate an electronic system in relation to non-P2P agreements* in C's capacity as a lender or prospective lender, in advance of the *firm* receiving any *money* from them or on their behalf, informing them:

(a) of the period during which it will continue to hold all the *money* of lenders and prospective lenders under *non-P2P agreements* in accordance with the *client money rules*;

(b) of the extent to which it will subsequently cease to hold their *money* in accordance with the *client money rules*; and

(c) of the date from which those changes will take effect.

7.10.7E R (1) A *firm* must make and retain a written record of any election it makes under ■ CASS 7.10.7AR including:

(a) the date from which the election is to be effective; and

(b) if it cancels the election, the date from which the election is to cease to be effective.

(2) The *firm* must:

   (a) make the record on the date it makes the election;

   (b) update the record it if it decides to cancel the election or change the effective date; and

   (c) keep the record for a period of five years after ceasing to use the election.

7.10.7F |G| (1) Where a *firm* has made an election under ■ CASS 7.10.7AR:

   (a) it should treat *money* held for a *client* as *client money* both in the course of or in connection with:

      (i) *operating an electronic system in relation to lending*; and

      (ii) *operating an electronic system in relation to non-P2P agreements*;

   (b) (a) is regardless of whether, at the time the *firm* is holding the *money*, the *client* could or could not be a lender under a *P2P agreement*; and

   (c) under ■ SYSC 4.1.8ER(2) it will be not be able to accept, take, or receive the transfer of full ownership of *money* relating to *non-P2P agreements*.

(2) Where a *firm* has not made an election under ■ CASS 7.10.7AR, or where it has previously made an election but the election has ceased to be effective under ■ CASS 7.10.7DR, any *money* it holds:

   (a) in the course of, or in connection with *relevant electronic lending services*, for a *client* who at that time will or could be a lender under a *P2P agreement* in respect of that *money*, should be treated as *client money* (for example because that *client's* contractual investment criteria permit that *money* to be invested in a *P2P agreement*); and

   (b) in the course of, or in connection with, *operating an electronic system in relation to non-P2P agreements*, for a customer who at that time could not be a lender under a *P2P agreement* in respect of that *money*, should not be treated as *client money* (for example because that customer's contractual investment criteria only permit that *money* to be invested in a *non-P2P agreement*).

Money that is not client money: 'opt outs' for any business other than insurance distribution activity

7.10.8 |R| ■ CASS 7.10.9 G to ■ CASS 7.10.15 G do not apply to a *firm* in relation to *money* held in connection with its *MiFID business* to which this chapter applies or in relation to *money* for which the *firm* has made an election under ■ CASS 7.10.3 R(1) or ■ CASS 7.10.7AR.

Professional client opt-out

7.10.9 |G| The 'opt out' provisions provide a *firm* with the option of allowing a *professional client* to choose whether their *money* is subject to the *client money rules* (unless the *firm* is conducting *insurance distribution activity*).

7.10.10 R Subject to ■ CASS 7.10.12 R, *money* is not *client money* when a *firm* (other than a sole trader) holds that *money* on behalf of, or receives it from, a *professional client*, other than in the course of *insurance distribution activity*, and the *firm* has obtained written acknowledgement from the *professional client* that:

> (1) *money* will not be subject to the protections conferred by the *client money rules*;

> (2) as a consequence, this *money* will not be segregated from the *money* of the *firm* in accordance with the *client money rules* and will be used by the *firm* in the course of its own business; and

> (3) the *professional client* will rank only as a general creditor of the *firm*.

'Opt-outs' for non-IDD business

7.10.11 G For a *firm* whose business is not governed by the *IDD*, it is possible to 'opt out' on a one-way basis. However, in order to maintain a comparable regime to that applying to *MiFID business*, all '*MiFID* type' business undertaken outside the scope of *MiFID* should comply with the *client money rules* or be 'opted out' on a two-way basis.

7.10.12 R *Money* is not *client money* if a *firm*, in respect of *designated investment business* which is not an *investment service or activity*, an *ancillary service*, a *listed activity* or *insurance distribution activity*:

> (1) holds it on behalf of or receives it from a *professional client* who is not an *authorised person*; and

> (2) has sent a separate written notice to the *professional client* stating the matters set out in ■ CASS 7.10.10 R (1) to ■ CASS 7.10.10 R (3).

7.10.13 G When a *firm* undertakes a range of business for a *professional client* and has separate agreements for each type of business undertaken, the *firm* may treat *client money* held on behalf of the *client* differently for different types of business; for example, a *firm* may, under ■ CASS 7.10.10 R or ■ CASS 7.10.12 R, elect to segregate *client money* in connection with *securities* transactions and not segregate (by complying with ■ CASS 7.10.10 R or ■ CASS 7.10.12 R) *money* in connection with contingent liability investments for the same *client*.

7.10.14 R When a *firm* transfers *client money* to another *person*, the firm must not enter into an agreement under ■ CASS 7.10.10 R or ■ CASS 7.10.12 R with that other person in relation to that client money or represent to that other person that the money is not *client money*.

7.10.15 G ■ CASS 7.10.14 R prevents a *firm*, when passing *client money* to another person under ■ CASS 7.14.2 R (Transfer of client money to a third party), from making use of the 'opt out' provisions under ■ CASS 7.10.10 R or ■ CASS 7.10.12 R.

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Credit institutions and approved banks

7.10.16 **R** In relation to the application of the *client money rules* (and any other *rule* in so far as it relates to matters covered by the *client money rules*) to the firms referred to in (1) and (2), the following is not *client money*:

(1) any deposits within the meaning of the *CRD* held by a *CRD credit institution*; and

[**Note**: article 16(9) of *MiFID* and article 4(1) of the *MiFID Delegated Directive*]

(2) any *money* held by an *approved bank* that is not a *CRD credit institution* in an account with itself in relation to *designated investment business* carried on for its *clients*.

7.10.17 **G** A *firm* referred to in ■ CASS 7.10.16 R must comply, as relevant, with ■ CASS 7.10.18 G to ■ CASS 7.10.24 R.

7.10.18 **G** The effect of ■ CASS 7.10.16 R is that, unless notified otherwise in accordance with ■ CASS 7.10.20 R or ■ CASS 7.10.22 R, *clients* of *CRD credit institutions* or *approved banks* that are not *CRD credit institutions* should expect that where they pass *money* to such *firms* in connection with *designated investment business* these sums will not be held as *client money*.

7.10.19 **R** A *firm* holding *money* in either of the ways described in ■ CASS 7.10.16 R must, before providing *designated investment business* services to the *client* in respect of those sums, notify the *client* that:

(1) the *money* held for that *client* is held by the *firm* as banker and not as a trustee under the *client money rules*; and

(2) if the *firm fails*, the *client money distribution and transfer rules* will not apply to these sums and so the *client* will not be entitled to share in any distribution under the *client money distribution and transfer rules*.

7.10.20 **R** A *firm* holding *money* in either of the ways described in ■ CASS 7.10.16 R in respect of a *client* and providing the services to it referred to in ■ CASS 7.10.19 R must:

(1) explain to its *clients* the circumstances, if any, under which it will cease to hold any *money* in respect of those services as banker and will hold the *money* as trustee in accordance with the *client money rules*; and

(2) set out the circumstances in (1), if any, in its terms of business so that they form part of its agreement with the *client*.

7.10.21 **G** Where a *firm* receives *money* that would otherwise be held as *client money* but for ■ CASS 7.10.16 R:

(1) it should be able to account to all of its *clients* for sums held for them at all times; and

(2) that *money* should, pursuant to *Principle* 10, be allocated to the relevant *client* promptly. This should be done no later than ten *business days* after the *firm* has received the *money*.

7.10.22　R　If a *CRD credit institution* or an *approved bank* that is not a *CRD credit institution* wishes to hold *client money* for a *client* (rather than hold the *money* in either of the ways described in ■ CASS 7.10.16 R) it must, before providing *designated investment business* services to the *client*, disclose the following information to the *client*:

(1) that the *money* held for that *client* in the course of or in connection with the business described under (2) is being held by the *firm* as *client money* under the *client money rules*;

(2) a description of the relevant business carried on with the *client* in respect of which the *client money rules* apply to the *firm*; and

(3) that, if the *firm fails*, the *client money distribution and transfer rules* will apply to *money* held in relation to the business in question.

7.10.23　G　*Firms* carrying on *MiFID business* are reminded of their obligation to supply investor compensation scheme information to *clients* under ■ COBS 6.1.16 R or ■ COBS 6.1ZA.22R (Compensation Information).

7.10.24　R　A *CRD credit institution* or an *approved bank* that is not a *CRD credit institution* must, in respect of any *client money* held in relation to its *designated investment business* that is not *MiFID business*, comply with the obligations referred to in ■ COBS 6.1.16 R (Compensation information).

Affiliated companies: MiFID business

7.10.25　G　A *firm* that holds *money* on behalf of, or receives *money* from, an affiliated company in respect of *MiFID business* must treat the affiliated company as any other *client* of the *firm* for the purposes of this chapter.

Affiliated companies: non-MiFID business

7.10.26　R　A *firm* that holds *money* on behalf of, or receives *money* from, an affiliated company in respect of *designated investment business* which is not *MiFID business* must not treat the *money* as *client money* unless:

(1) the *firm* has been notified by the affiliated company that the *money* belongs to a *client* of the affiliated company; or

(2) the affiliated company is a *client* dealt with at arm's length; or

(3) the affiliated company is a manager of an *occupational pension scheme* or is an overseas company; and

(a) the *money* is given to the *firm* in order to carry on *designated investment business* for or on behalf of the *clients* of the affiliated company; and

(b) the *firm* has been notified by the affiliated company that the *money* is to be treated as *client money*.

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Coins

7.10.27 R The *client money rules* do not apply with respect to coins held on behalf of a *client* if the *firm* and the client have agreed that the *money* (or *money* of that type) is to be held by the *firm* for the intrinsic value of the metal which constitutes the coin.

Solicitors

7.10.28 R (1) An *authorised professional firm* regulated by the Law Society (of England and Wales), the Law Society of Scotland or the Law Society of Northern Ireland that, with respect to its regulated activities, is subject to the following rules of its *designated professional body*, must comply with those rules and, where relevant paragraph (3), and if it does so, it will be deemed to comply with the *client money rules*.

(2) The relevant rules are:

(a) if the *firm* is regulated by the Law Society (of England and Wales), the SRA Accounts Rules 2011;

(b) if the *firm* is regulated by the Law Society of Scotland, the Law Society of Scotland Practice Rules 2011; and

(c) if the *firm* is regulated by the Law Society of Northern Ireland, the Solicitors' Accounts Regulations 1998.

(3) If the *firm* in (1) is a *MiFID investment firm* that receives or holds *money* for, or on behalf of a *client* in the course of, or in connection with its *MiFID business*, it must also comply with the *MiFID client money (minimum implementing) rules* in relation to that business.

Long term insurers and friendly societies

7.10.29 R This chapter does not apply to the *permitted activities* of a *long-term insurer* or a *friendly society*, unless it is a *MiFID investment firm* that receives *money* from or holds *money* for or on behalf of a *client* in the course of, or in connection with, its *MiFID business*.

Contracts of insurance

7.10.30 R (1) Provided it complies with ■ CASS 1.2.11 R, a *firm* that receives or holds *client money* in relation to *contracts of insurance* may elect to comply with the provisions of the *insurance client money chapter*, instead of this chapter, in respect of all such *money*.

(2) This *rule* is subject to ■ CASS 1.2.11 R.

7.10.31 R A *firm* must make and retain a written record of any election which it makes under ■ CASS 7.10.30 R.

Life assurance business

7.10.32 G (1) A *firm* which receives and holds *client money* in respect of life assurance business in the course of its *designated investment business* that is not *MiFID business* may:

(a) under ■ CASS 7.10.3 R (2) elect to comply with the *client money chapter* in respect of such *client money* and in doing so avoid the need to comply with the *insurance client money chapter* which would otherwise apply to the *firm* in respect of *client money* received in the course of its *insurance distribution activity*; or

(b) under ■ CASS 7.10.30 R, elect to comply with the *insurance client money chapter* in respect of such *client money*.

(2) These options are available to a *firm* irrespective of whether it also receives and holds *client money* in respect of other parts of its *designated investment business*. A *firm* may not however choose to comply with the *insurance client money chapter* in respect of *client money* which it receives and holds in the course of any part of its *designated investment business* which does not involve an *insurance distribution activity*.

Trustee firms

7.10.33 R A *trustee firm* which holds *money* in relation to its *designated investment business* which is not *MiFID business* to which this chapter applies, must hold any such *client money* separate from its own *money* at all times.

7.10.34 R Subject to ■ CASS 7.10.35 R only the *client money rules* listed in the table below apply to a *trustee firm* in connection with *money* that the *firm* receives, or holds for or on behalf of a *client* in the course of or in connection with its *designated investment business* which is not *MiFID business*.

Reference	Rule
CASS 7.10.1 R to CASS 7.10.6 G, and CASS 7.10.16 R to CASS 7.10.27 R	Application
CASS 7.10.33 R to CASS 7.10.40 G	Trustee firms
CASS 7.10.41 G	General purpose
CASS 7.13.3 R to CASS 7.13.4 G	Depositing client money
CASS 7.13.8 R to CASS 7.13.11 G	Selection, appointment and review of third parties
CASS 7.13.12 R to CASS 7.13.19 G	Client bank accounts
CASS 7.13.20 R to CASS 7.13.25 R	Diversification of client money
CASS 7.13.26 R to CASS 7.13.29 G	Qualifying money market funds
CASS 7.15.5 R (3), CASS 7.15.7 R and CASS 7.15.12 R to CASS 7.15.34 G	Reconciliation of client money balances
CASS 7.16	The standard methods of internal client money reconciliation
CASS 7.17.2 R to CASS 7.17.4 G	Requirement

7.10.35 R (1) A *trustee firm* to which ■ CASS 7.10.34 R applies may, in addition to the *client money rules* set out at ■ CASS 7.10.34 R, also elect to comply with:

(a) all the *client money rules* in ■ CASS 7.13 (Segregation of client money);

(b) ■ CASS 7.14 (Client money held by a third party);

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(c) all the client money rules in ■ CASS 7.15 (Records, accounts and reconciliations); or

(d) ■ CASS 7.18 (Acknowledgement letters).

(2) A *trustee firm* must make a written record of any election it makes under this *rule*, including the date from which the election is to be effective. The *firm* must make the record on the date it makes the election and must keep it for a period of five years after ceasing to use it.

(3) Where a *trustee firm* has made an election under (1) which it subsequently decides to cease to use, it must make a written record of this decision, including the date from which the decision is to be effective, and keep that record from the date the decision is made for a period of five years after the date it is to be effective.

7.10.36   R   A *trustee firm* to which ■ CASS 7.10.34 R applies and which is otherwise subject to the *client money rules* must ensure that any *client money* it holds other than in its capacity as *trustee firm* is segregated from *client money* it holds as a *trustee firm*.

7.10.37   G   A *trustee firm* to which ■ CASS 7.10.34 R applies and which is otherwise subject to the *client money rules* should ensure that in designing its systems and controls it:

(1) takes into account that the *client money distribution rules* will only apply in relation to any *client money* that the *firm* holds other than in its capacity as *trustee firm*; and

(2) has regard to other legislation that may be applicable.

7.10.38   R   (1) A *trustee firm* to which ■ CASS 7.10.34 R applies may elect that:

(a) the applicable provisions of ■ CASS 7.13 (Segregation of client money) and ■ CASS 7.15 (Records, accounts and reconciliations) under ■ CASS 7.10.34 R; and

(b) any further provisions it elects to comply with under ■ CASS 7.10.35 R (1);

will apply separately and concurrently for each distinct trust that the *trustee firm* acts for.

(2) A *trustee firm* must make a written record of any election it makes under this *rule*, including the date from which the election is to be effective. The *firm* must make the record on the date it makes the election and must keep it for a period of five years after ceasing to use it.

(3) Where a *trustee firm* has made an election under (1) which it subsequently decides to cease to use, it must make a written record of this decision, including the date from which the decision is to be effective, and must keep that record from the date the decision is made for a period of five years after the date it is to be effective.

7.10.39 |G| A *trustee firm* may wish to make an election under ■ CASS 7.10.38 R if, for example, it acts for a number of distinct trusts which it wishes, or is required, to keep operationally separate. If a *firm* makes such an election then it should:

(1) establish and maintain adequate internal systems and controls to effectively segregate *client money* held for one trust from *client money* held for another trust; and

(2) conduct *internal client money reconciliations* as set out in ■ CASS 7.16 and *external client money reconciliations* under ■ CASS 7.15.20 R for each trust.

7.10.40 |G| The provisions in ■ CASS 7.10.34 R to ■ CASS 7.10.39 G do not affect the general application of the *client money rules* regarding *money* that is held by a *firm* other than in its capacity as a *trustee firm*.

General purpose

7.10.41 |G| (1) *Principle* 10 (Clients' assets) requires a *firm* to arrange adequate protection for *clients*' assets when the *firm* is responsible for them. An essential part of that protection is the proper accounting and treatment of *client money*. The *client money rules* provide requirements for firms that receive or hold *client money*, in whatever form.

(2) The *client money rules* also, where relevant, implement the provisions of *MiFID* which regulate the obligations of a *firm* when it holds *client money* in the course of its *MiFID business*.

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7.11 Treatment of client money

Title transfer collateral arrangements ....

7.11.1 R   (1) [deleted]

(2) [deleted]

> A *firm* must not enter into a *TTCA* in respect of *money* belonging to a *retail client*.

> Where a *firm* entered into a *TTCA* in respect of *money* belonging to a *retail client* (or *money* which would belong to a *retail client* but for the arrangement) before 3 January 2018, the *firm* must terminate that *TTCA*.

> [**Note:** article 16(10) of *MiFID* and article 5(5) of the *MiFID Delegated Directive*]

> *Money* that is subject to a *TTCA* does not amount to *client money*, provided that the *TTCA* is not with a *retail client*.

> [**Note:** recital 52 to *MiFID*]

7.11.2 R   [deleted]

7.11.3 R   (1) A *firm* must ensure that any *TTCA* is the subject of a written agreement made on a *durable medium* between the *firm* and the *client*.

(2) Regardless of the form of the written agreement in (1) (which may have additional commercial purposes), it must cover the *client's* agreement to:

    (a) the terms for the arrangement relating to the transfer of the *client's* full ownership of *money* to the *firm*;

    (b) any terms under which the ownership of *money* is to transfer from the *firm* back to the *client*; and

    (c) (to the extent not covered by the terms under (b)), any terms for the termination of:

        (i) the arrangement under (a); or

        (ii) the overall agreement in (1).

(3) A *firm* must retain a copy of the agreement under (1) from the date the agreement is entered into and until five years after the agreement is terminated.

7.11.4   G   The terms referred to in ■ CASS 7.11.3 R (2)(b) may include, for example, terms under which the arrangement relating to the transfer of full ownership of *money* to the *firm* is not in effect from time to time, or is contingent on some other condition.

7.11.4A   R   (1) A *firm* must properly consider and document the use of *TTCAs* in the context of the relationship between the *client's* obligation to the *firm* and the *money* subjected to *TTCAs* by the *firm*.

(2) A *firm* must be able to demonstrate that it has complied with the requirement under (1).

(3) When considering, and documenting, the appropriateness of the use of *TTCAs*, a *firm* must take into account the following factors:

    (a) whether there is only a very weak connection between the *client's* obligation to the firm and the use of *TTCAs*, including whether the likelihood of a liability arising is low or negligible;

    (b) the extent by which the amount of *money* subject to a *TTCA* is in excess of the *client's* obligations (including where the *TTCA* applies to all *money* from the point of receipt by the *firm*) and whether the *client* might have no obligations at all to the *firm*; and

    (c) whether all the *client's money* is made subject to *TTCAs*, without consideration of what obligation the *client* has to the *firm*.

(4) Where a *firm* uses a *TTCA*, it must highlight to the client the risks involved and the effect of any *TTCA* on the *client's money*.

[**Note:** article 6 of the *MiFID Delegated Directive*]

7.11.5   G   [deleted]

7.11.6   G   Where a *firm* has received full title or full ownership to *money* under a collateral arrangement, the fact that it has also granted a security interest to

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its *client* to secure its obligation to repay that *money* to the *client* would not result in the *money* being *client money*. This can be compared to a situation in which a *firm* takes a charge or other security interest over *money* held in a *client bank account*, where that *money* would still be *client money* as there would be no absolute transfer of title to the *firm*. However, where a *firm* has received *client money* under a security interest and the security interest includes a "right to use arrangement", under which the *client* agrees to transfer all of its rights to *money* in that account to the *firm* upon the exercise of the right to use, the *money* may cease to be *client money*, but only once the right to use is exercised and the *money* is transferred out of the *client bank account* to the *firm*.

7.11.7 |G| *Firms* are reminded of the *client's* best interest rule, which requires a *firm* to act honestly, fairly and professionally in accordance with the best interests of its *clients* when structuring its business particularly in respect of the effect of that structure on *firms'* obligations under the *client money rules*.

7.11.8 |G| [deleted]

Termination of title transfer collateral arrangements

7.11.9 |R| (1) If a *client* communicates to a *firm* that it wishes (whether pursuant to a contractual right or otherwise) to terminate a *TTCA*, and the *client's* communication is not in writing, the *firm* must make a written record of the *client's* communication, which also records the date the communication was received.

(2) A *firm* must keep a *client's* written communication, or a written record of the *client's* communication in (1), for five years starting from the date the communication was received by the *firm*.

(3) (a) If a *firm* agrees to the termination of a *TTCA*, it must notify the *client* of its agreement in writing. The notification must state when the termination is to take effect and whether or not the *client's money* will be treated as *client money* by the *firm* thereafter.

(b) If a *firm* does not agree to terminate a *TTCA*, it must notify the *client* of its disagreement in writing.

(4) A *firm* must keep a written record of any notification it makes to a *client* under (3) for a period of five years, starting from the date the notification was made.

7.11.10 |G| ■ CASS 7.11.9 R (3)(a) refers only to a *firm's* agreement to terminate an existing *TTCA*. Such agreement by a *firm* does not necessarily need to amount to the termination of its entire agreement with the *client*.

7.11.11 |G| When a *firm* notifies a *client* under ■ CASS 7.11.9 R (3)(a) of when the termination of a *TTCA* is to take effect, it should take into account:

(1) any relevant terms relating to such a termination that have been agreed with the *client*; and

(2) the period of time it reasonably requires to return the *money* to the *client*, or to update its records under ■ CASS 7.15 (Records, accounts and reconciliations) and to segregate the *money* as *client money* under ■ CASS 7.13 (Segregation of client money).

7.11.12   R   If a *TTCA* is terminated then, unless otherwise permitted under the *client money rules* and notified to the *client* under ■ CASS 7.11.9R(3)(a), the *firm* must treat that *money* as *client money* from the start of the next business day following the date of termination as set out in the *firm's* notification under ■ CASS 7.11.9R (3)(a).

Where the *firm's* notification under ■ CASS 7.11.9R(3)(a) does not state when the termination of the arrangement will take effect, the *firm* must treat that *money* as *client money* from the start of the next *business day* following the date on which the *firm's* notification is made.

7.11.13   G   A *firm* to which ■ CASS 7.11.12 R applies should, for example, update its records under ■ CASS 7.15 (Records, accounts and reconciliations) and segregate the *money* as *client money* under ■ CASS 7.13 (Segregation of client money), from the relevant time at which the *firm* is required to treat the *money* as *client money*.

Delivery versus payment transaction exemption

7.11.14   R   (1) Subject to (2) and ■ CASS 7.11.16 R and with the agreement of the relevant *client*, *money* need not be treated as *client money* in respect of a delivery versus payment transaction through a *commercial settlement system* if:

(a) in respect of a *client's* purchase the *firm* intends for the *money* from the *client* to be due to it within one *business day* following the *firm's* fulfilment of its delivery obligation to the *client*; or

(b) in respect of a *client's* sale, the *firm* intends for the *money* in question to be due to the *client* within one *business day* following the *client's* fulfilment of its delivery obligation to the *firm*.

(2) If the payment or delivery by the *firm* to the *client* has not occurred by the close of business on the third *business day* following the date on which the *firm* makes use of the exemption under (1), the *firm* must stop using that exemption for the transaction.

7.11.15   G   [deleted]

7.11.16   R   A *firm* cannot, in respect of a particular delivery versus payment transaction, make use of the exemption under ■ CASS 7.11.14 R in either or both of the following circumstances:

(1) it is not a direct member or participant of the relevant *commercial settlement system*, nor is it sponsored by such a member or

participant, in accordance with the terms and conditions of that *commercial settlement system*;

(2) the transaction in question is being settled by another *person* on behalf of the *firm* through an account held at the relevant *commercial settlement system* by that other *person*.

7.11.17 **R** Where a *firm* does not meet the requirements in ■ CASS 7.11.14 R or ■ CASS 7.11.16 R for the use of the exemption in ■ CASS 7.11.14 R , the *firm* is subject to the *client money rules* in respect of any *money* it holds in connection with the delivery versus payment transaction in question.

7.11.18 **G** (1) In line with ■ CASS 7.11.14 R, where a *firm* receives *money* from the *client* in fulfilment of the *client's* payment obligation in respect of a delivery versus payment transaction the *firm* is carrying out through a *commercial settlement system* in respect of a *client's* purchase, and the *firm* has not fulfilled its delivery obligation to the *client* by close of business on the third *business day* following the date of the *client's* fulfilment of its payment obligation to the *firm*, the *firm* must treat the *client money* in accordance with the *client money rules* until delivery by the *firm* to the *client* occurs.

(2) Upon settlement of a delivery versus payment transaction a *firm* is carrying out through a *commercial settlement system* (including when it is settled within the three *business day* period referred to in ■ CASS 7.11.14 R (2)) then, in respect of:

(a) a *client's* purchase, the *custody rules* apply to the relevant *safe custody asset* the *firm* receives upon settlement; and

(b) a *client's* sale, the *client money rules* will apply to the relevant *money* received on settlement.

7.11.19 **R** A *firm* will not be in breach of the requirement under ■ CASS 7.13.6 R to receive *client money* directly into a *client bank account* if it:

(1) receives the *money* in question:

(a) in accordance with ■ CASS 7.11.14 R (1)(a) but it is subsequently required under ■ CASS 7.11.14 R (2) to hold that *money* in accordance with the *client money rules*; or

(b) in the circumstances referred to in ■ CASS 7.11.18 G (2)(b); and

(2) pays the *money* in question into a *client bank account* promptly, and in any event by close of business on the *business day* following:

(a) the expiration of the relevant period referred to in ■ CASS 7.11.14 R (2); or

(b) receipt of the *money* in the circumstances referred to in ■ CASS 7.11.18 G (2)(b).

7.11.20 **R** (1) If a *firm* makes use of the exemption under ■ CASS 7.11.14 R, it must obtain the *client's* written agreement to the *firm's* use of the exemption.

(2) In respect of each *client*, the record created in (1) must be retained during the time that the *firm* makes use, or intends to make use, of the exemption under ■ CASS 7.11.14 R in respect of that *client's* monies.

7.11.21   R   (1) Subject to (2)(a), *money* need not be treated as *client money*:

(a) in respect of a delivery versus payment transaction for the purpose of settling a transaction in relation to *units* in a *regulated collective investment scheme* in either of the following circumstances:

(i) the *authorised fund manager* receives the *money* from a *client* in relation to the *authorised fund manager's* obligation to issue units, in an *AUT* or *ACS*, or to arrange for the issue of *units* in an *ICVC*, in accordance with *COLL*; or

(ii) the *money* is held in the course of redeeming *units* where the proceeds of that redemption are paid to a client within the time specified in *COLL*.

(2) (a) Where, in respect of *money* received in any of the circumstances set out in (1), the *authorised fund manager* has not, by close of business on the *business day* following the date of receipt of the *money*, paid this *money* to the *depositary* of an *AUT* or *ACS*, the *ICVC* or to the *client* as the case may be, the *authorised fund manager* must stop using the exemption under (1) for that transaction.

(b) Paragraph (2)(a) does not prevent a *firm* transferring *client money* segregated under (2)(a) into the *firm's* own account, provided this is done only for the purpose of making a payment on the same day from that account in accordance with ■ CASS 7.11.34R(1) to ■ CASS 7.11.34R(3) (Discharge of fiduciary duty).

7.11.22   R   An *authorised fund manager* will not be in breach of the requirement under ■ CASS 7.13.6R to receive *client money* directly into a *client bank account* if it received the *money* in accordance with ■ CASS 7.11.21 R (1) and is subsequently required under ■ CASS 7.11.21 R (2) to hold that *money* in accordance with the *client money rules*.

7.11.23   G   Where proceeds of redemption paid to the *client* in accordance with ■ CASS 7.11.21 R (1)(a)(ii) are paid by cheque, the cheque should be issued from the relevant *client bank account*.

7.11.24   R   (1) If a *firm* makes use of the exemption under ■ CASS 7.11.21 R, it must obtain the *client's* written agreement to the *firm's* use of the exemption.

(2) In respect of each *client*, the record created in (1) must be retained for the duration of the time that the *firm* makes use of the exemption under ■ CASS 7.11.21 R in respect of that *client's money*.

Money due and payable to the firm

7.11.25 R   (1) *Money* is not *client money* when it becomes properly due and payable to the *firm* for its own account.

(2) For these purposes, 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 from a client bank account for reimbursement will become due and payable to the *firm*.

7.11.26 G   *Money* will not become properly due and payable to the *firm* merely through the *firm* holding that *money* for a specified period of time. If a *firm* wishes to cease to hold *client money* for a *client* it must comply with ■ CASS 7.11.34 R (Discharge of fiduciary duty) or, if the balance is allocated but unclaimed *client money*, ■ CASS 7.11.50 R (Allocated but unclaimed client money) or ■ CASS 7.11.57 R (De minimis amounts of unclaimed client money).

7.11.27 G   *Money* held as *client money* becomes due and payable to the *firm* or for the *firm's* own account, for example, because the *firm* acted as *principal* in the contract or the *firm*, acting as agent, has itself paid for *securities* in advance of receiving the purchase *money* from its *client*. The circumstances in which it is due and payable will depend on the contractual arrangement between the *firm* and the *client*.

7.11.28 G   *Firms* are reminded that, notwithstanding that *money* may be due and payable to them, they have a continuing obligation to segregate *client money* in accordance with the *client money rules*. In particular, in accordance with ■ CASS 7.15.2 R, *firms* must ensure the accuracy of their records and accounts and are reminded of the requirement to carry out *internal client money reconciliations* either in accordance with the standard methods of *internal client money reconciliation* or the requirements for a *non-standard method of internal client money reconciliation*.

7.11.29 G   When a *client's* obligation or liability, which is secured by that *client's* asset, crystallises, and the *firm* realises the asset in accordance with an agreement entered into between the *client* and the *firm*, the part of the proceeds of the asset to cover such liability that is due and payable to the *firm* is not *client* money. However, any proceeds of sale in excess of the amount owed by the *client* to the *firm* should be paid over to the *client* immediately or be held in accordance with the *client money rules*.

Commission rebate

7.11.30 G   When a *firm* has entered into an arrangement under which *commission* is rebated to a *client*, those rebates need not be treated as *client money* until they become due and payable to the *client* in accordance with the terms of the contractual arrangements between the parties.

7.11.31 G   When *commission* rebate becomes due and payable to the *client*, the *firm* should:

(1) treat it as *client money*; or

(2) pay it out in accordance with the *rule* regarding the discharge of a *firm*'s fiduciary duty to the *client* (see ■ CASS 7.11.34 R);

unless the *firm* and the *client* have entered into an arrangement under which the *client* has agreed to transfer full ownership of this *money* to the *firm* as collateral against payment of future professional fees (see ■ CASS 7.11 (Title transfer collateral arrangements)).

Interest

7.11.32 R A *firm* must pay a *retail client* any interest earned on *client money* held for that *client* unless it has otherwise notified him in writing.

7.11.33 G (1) The *firm* may, under the terms of its agreement with the *client*, pay some, none, or all interest earned to the relevant *client*.

(2) Where interest is payable on *client money* by a *firm* to *clients*:

   (a) such sums are *client money* and so, if not paid to, or to the order of the clients, are required to be segregated in accordance with ■ CASS 7.13 (Segregation of client money);

   (b) the interest should be paid to *clients* in accordance with the *firm*'s agreement with each *client*; and

   (c) if the *firm*'s agreement with the *client* is silent as to when interest should be paid to the *client* the *firm* should follow ■ CASS 7.13.36 R (Allocation of client money receipts);

irrespective of whether the *client* is a *retail client* or otherwise.

Discharge of fiduciary duty

7.11.33A R (1) ■ CASS 7.11.34R(2)(c), ■ CASS 7.11.34R(2)(d) and ■ CASS 7.11.34R(10) do not apply to a *firm* following a *primary pooling event*.

(2) ■ CASS 7.11.34R(2)(e) only applies to a *firm* following a *primary pooling event*.

7.11.34 R *Money* ceases to be *client money* (having regard to ■ CASS 7.11.40 R where applicable) if:

(1) it is paid to the *client*, or a duly authorised representative of the client; or

(2) it is:

   (a) paid to a third party on the instruction of, or with the specific consent of, the *client* unless it is transferred to a third party in the course of effecting a transaction under ■ CASS 7.14.2 R (Transfer of client money to a third party); or

   (b) paid to a third party pursuant to an obligation on the *firm* where:

      (i) that obligation arises under an enactment; and

(ii) the obligation under that enactment is applicable to the *firm* as a result of the nature of the business being undertaken by the *firm* for its *client*; or

(c) transferred in accordance with ■ CASS 7.11.42 R; or

(d) transferred in accordance with ■ CASS 7.11.44 R; or

(e) transferred in accordance with ■ CASS 7A.2.4R(4); or

(3) subject to ■ CASS 7.11.39R, it is paid into a bank account of the *client* (not being an account which is also in the name of the *firm*); or

(4) it is due and payable to the *firm* in accordance with ■ CASS 7.11.25 R (Money due and payable to the firm); or

(5) it is paid to the *firm* as an excess in the *client bank account* (see ■ CASS 7.15.29 R (2) (Reconciliation discrepancies)); or

(6) it is paid by an *authorised central counterparty* to a clearing member other than the *firm* in connection with a *porting* arrangement in accordance with ■ CASS 7.11.35 R; or

(7) it is paid by an *authorised central counterparty* directly to the *client* in accordance with ■ CASS 7.11.36 R; or

(8) it is transferred by the *firm* to a *clearing member* in connection with a *regulated clearing arrangement* and the *clearing member* remits payment to another *firm* or to another *clearing member* in accordance with ■ CASS 7.11.37 R (1); or

(9) it is transferred by the *firm* to a *clearing member* in connection with a *regulated clearing arrangement* and the *clearing member* remits payment directly to the *indirect clients* of the *firm* in accordance with ■ CASS 7.11.37 R (2); or

(10) it is paid to charity under ■ CASS 7.11.50 R or ■ CASS 7.11.57 R.

7.11.35 **R** *Client money* which the *firm* places at an *authorised central counterparty* in connection with a *regulated clearing arrangement* ceases to be *client money* for that *firm* if, as part of the default management process of that *authorised central counterparty* in respect of a default by the *firm*, it is ported by the *authorised central counterparty* in accordance with article 48 of *EMIR*.

7.11.36 **R** *Client money* which the *firm* places at an *authorised central counterparty* in connection with a *regulated clearing arrangement* ceases to be *client money* if, as part of the default management process of that *authorised central counterparty* in respect of a default by the *firm*, it is paid directly to the *client* by the *authorised central counterparty* in accordance with the procedure described in article 48(7) of *EMIR*.

7.11.37 **R** *Client money* received or held by the *firm* and transferred to a *clearing member* who facilitates indirect clearing through a *regulated clearing arrangement* ceases to be *client money* for that *firm* and, if applicable, the *clearing member*, if the *clearing member* in accordance with the *EMIR indirect clearing default management obligations* or the *MiFIR indirect clearing default management obligations* (as applicable):

(1) remits payment to another *firm* or to another *clearing member*; or

(2) remits payment to the *indirect clients* of the *firm*.

7.11.38 |R| *Client money* received or held by the *firm* for a *sub-pool* ceases to be *client money* for that *firm* to the extent that such *client money* is transferred by the *firm* to an *authorised central counterparty* or a *clearing member* as a result of *porting*.

7.11.39 |R| A *firm* must not pay *client money* into a bank account of the *client* that has been opened without the consent of that *client*.

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

Transfer of business
7.11.40A |R| ■ CASS 7.11.41G to ■ CASS 7.11.47R do not apply to a *firm* following a *primary pooling event*.

7.11.40B |G| ■ CASS 7A.2.4R(4) (Pooling and distribution or transfer) applies to a *firm* in respect of transfers of *client money* to another *person* following a *primary pooling event*.

7.11.41 |G| A *firm* may transfer *client money* to a third party as part of transferring all or part of its business if, in respect of each *client* with an interest in the *client money* that is sought to be transferred, it:

(1) obtains the consent or instruction of that *client* at the time of the transfer of business (see ■ CASS 7.11.34 R (2)(a); or

(2) complies with ■ CASS 7.11.42 R (see ■ CASS 7.11.34 R (2)(c); or

(3) complies with ■ CASS 7.11.44 R (see ■ CASS 7.11.34 R (2)(d)).

7.11.42 |R| Subject to ■ CASS 7.11.44 R, money ceases to be *client money* for a *firm* if:

(1) it is transferred by the *firm* to another *person* as part of a transfer of business to that person where the *client money* relates to the business being transferred;

(2) it is transferred on terms which require the other *person* to return a *client's* transferred sums to the *client* as soon as practicable at the *client's* request;

(3) a written agreement between the *firm* and the relevant *client* provides that:

(a) the *firm* may transfer the *client's client money* to another *person*; and

(b)　(i)　the sums transferred will be held by the *person* to whom they are transferred in accordance with the *client money rules* for the *clients*; or

　　　(ii)　if not held in accordance with (i), the *firm* will exercise all due skill, care and diligence in assessing whether the *person* to whom the *client money* is transferred will apply adequate measures to protect these sums; and

(4)　the *firm* complies with the requirements in (3)(b)(ii) (if applicable).

7.11.43　G　In considering how and whether to introduce the written agreement referred to in ■ CASS 7.11.42 R (3), *firms* should have regard to any relevant obligations to *clients*, including requirements under the *Unfair Terms Regulations*.

Transfer of business: de minimis sums

7.11.44　R　(1)　*Client money* belonging to those categories of *clients* set out in (2) and in respect of those amounts set out in (2) ceases to be *client money* of the *firm* if it is transferred by the *firm* to another *person*:

　　　(a)　as part of a transfer of business to that other person where these sums relate to the business being transferred; and

　　　(b)　on terms which require the other *person* to return a *client's* transferred sums as soon as practicable at the *client's* request.

(2)　(a)　For *retail clients* the amount is £25.

　　　(b)　For all other *clients* the amount is £100.

7.11.45　G　For the avoidance of doubt, sums transferred under ■ CASS 7.11.44 R do not, for the purposes of that *rule*, require the instruction or specific consent of each *client* at the time of the transfer or a written agreement as set out in ■ CASS 7.11.42 R (3).

Transfer of business: client notifications

7.11.46　R　Where a *firm* transfers *client money* belonging to its *clients* under either or both of ■ CASS 7.11.42 R and ■ CASS 7.11.44 R it must ensure that those *clients* are notified no later than seven *days* after the transfer taking place:

(1)　whether or not the sums will be held by the person to whom they have been transferred in accordance with the *client money rules* and if not how the sums being transferred will be held by that *person*;

(2)　the extent to which the sums transferred will be protected under a compensation scheme; and

(3) that the *client* may opt to have the *client's* transferred sum returned to it as soon as practicable at the *client's* request.

7.11.47 [R] The *firm* must notify the *FCA* of its intention to effect any transfer of *client money* under either or both of ■ CASS 7.11.42 R and ■ CASS 7.11.44 R at least seven *days* before it transfers the *client money* in question.

Allocated but unclaimed client money

7.11.47A [R] ■ CASS 7.11.48G to ■ CASS 7.11.58G do not apply to a *firm* following a *primary pooling event*.

7.11.47B [G] ■ CASS 7A.2.6AR (Closing a client money pool) applies to a *firm* following a *primary pooling event* in respect of allocated but unclaimed *client money*.

7.11.48 [G] The purpose of ■ CASS 7.11.50 R is to set out the requirements *firms* must comply with in order to cease to treat as *client money* any unclaimed balance which is allocated to an individual *client*.

7.11.49 [G] Before acting in accordance with ■ CASS 7.11.50 R to ■ CASS 7.11.58 G, a *firm* should consider whether its actions are permitted by law and consistent with the arrangements under which the *client money* is held. For the avoidance of doubt, these provisions relate to a *firm's* obligations as an *authorised person* and to the treatment of *client money* under the *client money rules*.

7.11.50 [R] A *firm* may pay away to a registered charity of its choice a *client money* balance which is allocated to a *client* and if it does so the released balance will cease to be *client money* under ■ CASS 7.11.34 R (10), provided:

(1) this is permitted by law and consistent with the arrangements under which the *client money* is held;

(2) the *firm* held the balance concerned for at least six years following the last movement on the *client's* account (disregarding any payment or receipt of interest, charges or similar items);

(3) it can demonstrate that it has taken reasonable steps to trace the *client* concerned and to return the balance; and

(4) the *firm* complies with ■ CASS 7.11.54 R.

7.11.51 [G] Where the *client money* balance held by a *firm* is, in aggregate, £100 or less for a *client* other than a *retail client* or, for a *retail client*, £25 or less, the *firm* may comply with ■ CASS 7.11.57 R instead of ■ CASS 7.11.50 R.

7.11.52 [E] (1) Taking reasonable steps in ■ CASS 7.11.50 R (3) includes following this course of conduct:

(a) determining, as far as reasonably possible, the correct contact details for the relevant *client*;

(b) writing to the *client* at the last known address either by post or by electronic mail to inform it of the *firm's* intention to no longer treat the *client money* balance as *client money* and to pay the sums concerned to charity if the *firm* does not receive instructions from the *client* within 28 *days*;

(c) where the *client* has not responded after the 28 *days* referred to in (b), attempting to communicate the information set out in (b) to the *client* on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;

(d) subject to (e) and (f), where the *client* has not responded within 28 *days* following the most recent communication, writing again to the *client* at the last known address either by post or by electronic mail to inform them that:

　(i) as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 *days* pay the balance to a registered charity; and

　(ii) an undertaking will be provided by the *firm* or a member of its *group* to pay to the *client* concerned a sum equal to the balance paid away to charity in the event of the *client* seeking to claim the balance in future;

(e) if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);

(f) if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and

(g) waiting a further 28 *days* following the most recent communication under this *rule* before paying the balance to a registered charity.

(2) Compliance with (1) may be relied on as tending to establish compliance with ■ CASS 7.11.50 R.

(3) Contravention of (1) may be relied on as tending to establish contravention of ■ CASS 7.11.50 R.

7.11.53   G   For the purpose of ■ CASS 7.11.52 E (1)(a), a *firm* may use any available means to determine the correct contact details for the relevant *client*, including telephoning the *client*, searching internal records, media advertising, searching public records, mortality screening, using credit reference agencies or tracing agents.

7.11.54   R   (1) Where a *firm* wishes to release a balance allocated to an individual *client* under ■ CASS 7.11.50 R it must comply with either (a) or (b) and, in either case, (2):

(a) the *firm* must unconditionally undertake to pay to the *client* concerned a sum equal to the balance paid away to charity in the event of the *client* seeking to claim the balance in future;

or

(b) the *firm* must ensure that an unconditional undertaking in the terms set out in (a) is made by a member of its *group* and there is suitable information available for relevant *clients* to identify the member of the *group* granting the undertaking.

(2) The undertakings in this *rule* must be:

(a) authorised by the *firm's governing body* where (1)(a) applies or by the *governing body* of the *group* member where (1)(b) applies;

(b) legally enforceable by any *person* who had a legally enforceable claim to the balance in question at the time it was released by the *firm*, or by an assign or successor in title to such claim; and

(c) retained by the *firm*, and where (1)(b) applies, by the group member indefinitely.

7.11.55   R   (1) If a *firm* pays away *client money* under ■ CASS 7.11.50 R (4) it must make and retain, or where the *firm* already has such records, retain:

(a) records of all balances released from *client bank* accounts under ■ CASS 7.11.50 R (including details of the amounts and the identity of the *client* to whom the *money* was allocated);

(b) all relevant documentation (including charity receipts); and

(c) details of the communications the *firm* had or attempted to make with the *client* concerned pursuant to ■ CASS 7.11.50 R (3).

(2) The records in (1) must be retained indefinitely.

(3) If a member of the *firm's group* has provided an undertaking under ■ CASS 7.11.54 R (2) then the records in (1) must be readily accessible to that *group* member.

De minimis amounts of unclaimed client money

7.11.56   G   The purpose of ■ CASS 7.11.57 R is to allow a *firm* to pay away to charity *client money* balances of (i) £25 or less for *retail client*s or (ii) £100 or less for other *clients* when those balances remain unclaimed. If a *firm* follows this process, the *money* will cease to be *client money* (see ■ CASS 7.11.34 R (10).

7.11.57   R   A *firm* may pay away to a registered charity of its choice a *client money* balance which is allocated to a *client* and if it does so the released balance will cease to be *client money* under ■ CASS 7.11.34 R (10):

(1) the balance in question is (i) for a *retail client*, in aggregate, £25 or less, or (ii) for a *professional client*, in aggregate, £100 or less;

(2) the *firm* held the balance concerned for at least six years following the last movement on the *client's* account (disregarding any payment or receipt of interest, charges or similar items);

(3) the *firm* has made at least one attempt to contact the *client* to return the balance using the most up-to-date contact details the *firm* has for

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the *client*, and the *client* has not responded to such communication within 28 days of the communication having been made; and

(4) the *firm* makes and/or retains records of all balances released from *client bank* accounts in according with this *rule*. Such records must include the information in ■ CASS 7.11.55 R (1)(a) and ■ CASS 7.11.55 R (1)(b).

Costs associated with paying away allocated but unclaimed client money

7.11.58   G   Any costs associated with the *firm* ceasing to treat unclaimed *client money* balances as *client money* pursuant to ■ CASS 7.11.50 R to ■ CASS 7.11.57 R should be paid for from the *firm's* own funds, including:

(1) any costs associated with the *firm* carrying out the steps in ■ CASS 7.11.50 R (3), ■ CASS 7.11.51 G or ■ CASS 7.11.57 R (3); and

(2) the cost of any insurance purchased by a *firm* or the relevant member of its *group* to cover any legally enforceable claim in respect of the *client money* paid away.

7.12 Organisational requirements: client money

Requirement to protect client money

7.12.1 R A *firm* must, when holding *client money*, make adequate arrangements to safeguard the *client's* rights and prevent the use of *client money* for its own account.

[**Note**: article 16(9) of *MiFID*]

Requirement to have adequate organisational arrangements

7.12.2 R A *firm* must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of *client money*, or of rights in connection with *client money*, as a result of misuse of *client money*, fraud, poor administration, inadequate record-keeping or negligence.

[**Note**: article 2(1)(f) of the *MiFID Delegated Directive*]

7.12.3 G The risk of loss or diminution of rights in connection with *client money* can arise where a *firm's* organisational arrangements give rise to the possibility that *client money* held by the *firm* may be paid for the account of a *client* whose *money* is yet to be received by the *firm*. Consistent with the requirement to hold *client money* as trustee (see ■ CASS 7.17.5 G), a *firm* should ensure its organisational arrangements are adequate to minimise such a risk. This may include, for example, allowing for sufficient periods of time for payments of *client money* to the *firm* to become available for use (including automated payments, credit card payments and payments by cheque), and setting up safeguards to ensure that payments out of *client bank accounts* do not take effect before the relevant amount of *client money* has become available for use by the *firm*.

7.13　Segregation of client money

Application and purpose

7.13.1　|G|　The segregation of *client money* from a *firm*'s own *money* is an important safeguard for its protection.

7.13.2　|R|　Where a *firm* establishes one or more *sub-pools*, the provisions of ■ CASS 7.13 (Segregation of client money) shall be read as applying separately to the *firm's general pool* and each *sub-pool* in line with ■ CASS 7.19.3 R and ■ CASS 7.19.12 R.

Depositing client money

7.13.3　|R|　A *firm*, on receiving any *client money*, must promptly place this *money* into one or more accounts opened with any of the following:

(1)　a central bank;

(2)　a *CRD credit institution*;

(3)　a bank authorised in a *third country*;

(4)　a *qualifying money market fund*.

[**Note**: article 4(1) of the *MiFID Delegated Directive*]

7.13.4　|G|　A *firm* should ensure that any *money* other than *client money* that is deposited in a *client bank account* is promptly paid out of that account unless such *money* is a minimum sum required to open the account, or to keep the account open.

Approaches for the segregation of client money

7.13.5　|G|　The two approaches that a *firm* can adopt in discharging its obligations under this section are:

(1)　the 'normal approach'; or

(2)　the 'alternative approach' (see ■ CASS 7.13.54 G to ■ CASS 7.13.69 G).

The normal approach ....

7.13.6   [R]   Unless otherwise permitted by any other *rule* in this chapter, a *firm* using the normal approach must ensure that all *client money* it receives is paid directly into a *client bank account* at an institution referred to in ■ CASS 7.13.3 R (1) to ■ CASS 7.13.3 R (3), rather than being first received into the *firm's* own account and then segregated.

7.13.7   [G]   *Firms* should ensure that *clients* and third parties make transfers and payments of any *money* which will be *client money* directly into the *firm's* *client bank accounts*.

Selection, appointment and review of third parties ....

7.13.8   [R]   (1)   A *firm* that does not deposit *client money* with a central bank must exercise all due skill, care and diligence in the selection, appointment and periodic review of the *CRD credit institution*, bank or *qualifying money market fund* where the *money* is deposited and the arrangements for the holding of this *money*.

         (2)   The *firm* must consider the need for diversification as part of its due diligence under (1).

         [**Note**: article 4(2) first sub-paragraph of the *MiFID Delegated Directive*]

7.13.9   [G]   *Firms* should ensure that their consideration of a *CRD credit institution*, bank or *qualifying money market fund* under ■ CASS 7.13.8 R focuses on the specific legal entity in question and not simply that *person's* group as a whole.

7.13.10   [R]   When a *firm* makes the selection, appointment and conducts the periodic review of a *CRD credit institution*, a bank or a *qualifying money market fund*, it must take into account:

         (1)   the expertise and market reputation of the third party with a view to ensuring the protection of *clients'* rights; and

         (2)   any legal or regulatory requirements or market practices related to the holding of *client money* that could adversely affect *clients'* rights.

         [**Note**: article 4(2) second sub-paragraph of the *MiFID Delegated Directive*]

7.13.11   [G]   In complying with ■ CASS 7.13.8 R and ■ CASS 7.13.10 R, a firm should consider, as appropriate, together with any other relevant matters:

         (1)   the capital of the *CRD credit institution* or bank;

         (2)   the amount of *client money* placed, as a proportion of the *CRD credit institution* or bank's capital and deposits, and, in the case of a *qualifying money market fund*, compared to any limit the fund may place on the volume of redemptions in any period;

         (3)   the extent to which *client money* that the *firm* deposits or holds with any *CRD credit institution* or bank incorporated outside the *UK* would

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be protected under a deposit protection scheme in the relevant jurisdiction;

(4) the credit-worthiness of the *CRD credit institution* or bank; and

(5) to the extent that the information is available, the level of risk in the investment and loan activities undertaken by the *CRD credit institution* or bank and *affiliated companies*.

Client bank accounts

7.13.12   R   A *firm* must take the necessary steps to ensure that *client money* deposited, in accordance with ■ CASS 7.13.3 R, in a central bank, a *credit institution*, a bank authorised in a *third country* or a *qualifying money market fund* is held in an account or accounts identified separately from any accounts used to hold *money* belonging to the *firm*.

[**Note**: article 2(1)(e) of the *MiFID Delegated Directive*]

7.13.13   R   (1) An account which the *firm* uses to deposit *client money* under ■ CASS 7.13.3 R (1) to ■ CASS 7.13.3 R (3) must be a *client bank account*.

(2) In respect of each *client bank account* used by a *firm* to satisfy its obligation under ■ CASS 7.13.3R(1) to (3):

(a) the relevant bank's contractual counterparty must be the *firm* itself; and

(b)) subject to paragraph (3A), the *firm* must be able to make withdrawals of *client money* promptly and, in any event, within one *business day* of a request for withdrawal.

Transitional provision ■ CASS TP 1.1.10AR applies to (2).

(3) [deleted]

(3A) Where the requirement under sub-paragraph (2)(b) is not satisfied and provided that the *client bank account* is not included in a *sub-pool*, a *firm* may use a *client bank account* from which it will be unable to make a withdrawal of *client money* until the expiry of a period lasting:

(a) up to 30 *days*; or

(b) provided the *firm* complies with ■ CASS 7.13.14AR, from 31 to 95 *days*.

(4) Paragraphs (2)(b) and (3A) do not apply in respect of *client money* received by a *firm* in its capacity as a *trustee firm*.

7.13.14   G   ■ CASS 7.13.13 R (2)(b) and ■ CASS 7.13.13R(3A) do not prevent a *firm* from depositing *client money* on terms under which a withdrawal may be made before the expiry of a fixed term or a notice period (whatever the duration), including where such withdrawal would incur a penalty charge to the *firm*.

7.13.14A   R   A *firm* may only use one or more *client bank accounts* under ■ CASS 7.13.13R(3A)(b) if:

(1) prior to using any such *client bank accounts*, it:

(a) produces a written policy that sets out:

(i) for each of its business lines, the maximum proportion of the *client money* held by the *firm* that the *firm* considers would be appropriate to hold in such *client bank accounts* having regard to the need to manage the risk of the *firm* being unable to access *client money* when required;

(ii) the *firm's* rationale for reaching its conclusion(s) under (i); and

(iii) the measures that it will put into place to comply with sub-paragraph (2)(a) of this *rule*, having regard to ■ CASS 7.13.14CE; and

(b) provides each of its *clients* with a written explanation of the risks that arise as a result of the longer notice period for withdrawals that:

(i) is clear, fair and not misleading; and

(ii) in respect of the medium of the explanation, satisfies whichever of ■ COBS 6.1.13R (Medium of disclosure) or ■ COBS 6.1ZA.19EU (Medium of disclosure) applies to the *firm* in respect of its obligations to provide information to the *client*; and

(2) while the *firm* uses any such *client bank accounts*, it:

(a) takes appropriate measures to manage the risk of the *firm* being unable to access *client money* when required;

(b) keeps its written policy under sub-paragraph (1)(a) under review, amending it where necessary; and

(c) provides any of its *clients* to whom it has not previously provided the explanation under sub-paragraph (1)(b) with such a written explanation before it starts to hold or receive *client money* for them.

7.13.14B [R]

(1) A *firm* must make and retain a written record of:

(a) the written policy it produces under ■ CASS 7.13.14AR(1)(a); and

(b) each subsequent version of the written policy it produces as a result of ■ CASS 7.13.14AR(2)(b).

(2) The *firm* must make the record:

(a) under sub-paragraph (1)(a) on the date it produces the written policy; and

(b) under sub-paragraph (1)(b) on the date it produces the new version of the written policy.

(3) The *firm* must keep each record under this *rule* for a period of five years after the earlier of:

(a) the date on which the version of the policy to which the record relates was superseded; and

(b) the date on which the *firm* ceased to use *client bank accounts* under ■ CASS 7.13.13R(3A)(b).

7.13.14C　E

(1) Appropriate measures under ■ CASS 7.13.14AR(2)(a) include the *firm* considering the need to make, and making where appropriate, quarterly or more frequent adjustments to the amount of *client money* held in *client bank accounts* under ■ CASS 7.13.13R(3A)(b), taking into consideration the following factors:

　(a) historic and expected future *client money* receipts and payments;

　(b) the *firm's* own analysis of its exposure to the risk of being unable to meet instructions from its *clients* in relation to *client money* that it holds, applying an appropriate set of time horizons and stress scenarios; and

　(c) the content of the *firm's* written policy under ■ CASS 7.13.14AR(1)(a)(i) and (ii).

(2) Compliance with (1) may be relied on as tending to establish compliance with ■ CASS 7.13.14AR(2)(a).

(3) Contravention of (1) may be relied on as tending to establish contravention of ■ CASS 7.13.14AR(2)(a).

7.13.14D　G

(1) Under ■ CASS 7.13.14AR(2)(b) a *firm* should consider whether amendments to its written policy under ■ CASS 7.13.14AR(1)(a) are needed for any reason, including in light of the *firm's* analysis in the course of its measures under ■ CASS 7.13.14AR(2)(a).

(2) Each time a *firm* amends its written policy under ■ CASS 7.13.14AR(1)(a), it should also update the rationale for the amended policy under ■ CASS 7.13.14AR(1)(a)(ii).

(3) The stress scenarios under ■ CASS 7.13.14CE(1)(b) should include a variety of severe yet plausible institution-specific and market-wide liquidity shocks.

7.13.14E　G

(1) If a fixed term or notice period for a withdrawal from a *client bank account* is scheduled to expire on a *day* on which a *firm* would expect to be unable to make the withdrawal, and the result is that the total period for which the withdrawal is prevented is longer than that permitted under ■ CASS 7.13.13R(3A)(a) or (b), then the *firm* would be in breach of that *rule*.

(2) Such a situation could arise because the fixed term or notice period expires on a *day* which is not a *business day* for the relevant bank.

(3) *Firms* should therefore schedule their withdrawals from *client bank accounts* under ■ CASS 7.13.13R(3A)(a) and (b) to avoid such breaches.

7.13.14F　G

Firms that hold *client money* using a *client bank account* under ■ CASS 7.13.13R(3A)(b) and to which ■ SUP 16.14 (Client money and asset return) applies may need to fill in their *CMARs* in the way set out at ■ SUP 16.14.7R (Reporting of 'unbreakable' client money deposits).

7.13.15 |G| ■ CASS 7.13.13 R does not prevent a *firm* from depositing *client money* in overnight money market deposits which are clearly identified as being *client money* (for example, in the *client bank account* acknowledgment letter).

7.13.16 |G| *Firms* are reminded of their obligations under ■ CASS 7.18 (Acknowledgment letters) for *client bank accounts*. *Firms* should also ensure that *client bank accounts* meet the requirements in the relevant *Glossary* definitions, including regarding the titles given to the accounts.

7.13.17 |G| A *firm* may open one or more *client bank accounts* in the form of a general *client bank account*, a *designated client bank account* or a *designated client fund account*. The requirements of ■ CASS 7.13.13 R (2) and ■ CASS 7.13.13 R (3) apply for each type of *client bank account*.

7.13.18 |G| A *designated client bank account* may be used for a *client* only where that *client* has consented to the use of that account. If a *firm* deposits *client money* into a *designated client bank account* then, in the event of a *secondary pooling event* in respect of the relevant bank, the account will not be pooled with any *general client bank account* or *designated client fund account*.

7.13.19 |G| A *designated client fund account* may be used for a *client* only where that *client* has consented to the use of that account and all other *designated client fund accounts* which may be pooled with it. For example, a *client* who consents to the use of bank A and bank B should have his *money* held in a different *designated client fund account* at bank B from a *client* who has consented to the use of banks B and C. If a *firm* deposits *client money* into a *designated client fund account* then, in the event of a *secondary pooling event* in respect of the relevant bank, the account will not be pooled with any *general client bank account* or *designated client bank account*.

Diversification of client money

7.13.20-A |G| (1) In ■ CASS 7.13.20R to ■ CASS 7.13.25R *client money* means *money* deposited under ■ CASS 7.13.3R and therefore includes *money* deposited under ■ CASS 7.13.3R:

(a) in an account opened with a *qualifying money market fund*; or

(b) invested in units or shares of a *qualifying money market fund*.

(2) But *client money* held under ■ CASS 7.14.2R does not fall within the scope of the diversification provisions at ■ CASS 7.13.20R to ■ CASS 7.13.25R.

7.13.20 |R| Notwithstanding the requirement at ■ CASS 7.13.22 R a *firm* must limit the funds that it deposits or holds with a relevant group entity or combination of such entities so that the value of those funds do not at any point in time exceed 20 per cent of the total of all the *client money* held by the *firm* under ■ CASS 7.13.3R.

[**Note:** article 4(3) first sub-paragraph of the *MiFID Delegated Directive*]

7.13.21   **R**   For the purpose of ■ CASS 7.13.20 R an entity is a relevant group entity if it is:

(1)   (a) a *CRD credit institution*; or

a bank authorised in a *third country*; or

a *qualifying money market fund*; or

the entity operating or managing the *qualifying money market fund*; and

(2) a member of the same *group* as that *firm*.

[**Note:** article 4(3) first sub-paragraph of the *MiFID Delegated Directive*]

7.13.21A   **R**   (1) A *firm* need not comply with ■ CASS 7.13.20R if, following an assessment, it is able to demonstrate that the requirement under that *rule* is not proportionate, in view of:

(a) the small balance of *client money* that it holds;

(b) the nature, scale and complexity of its business; and

(a) the safety offered by the relevant third parties referred to under ■ CASS 7.13.20R.

(2) A *firm* must review any assessment it makes under (1) periodically.

(3) A *firm* must notify its assessment under (1) and its reviewed assessments under (2) to the *FCA* in accordance with ■ CASS 7.13.21CR.

[**Note:** article 4(3) second sub-paragraph of the *MiFID Delegated Directive*]

7.13.21B   **G**   (1) In relation to the requirement to take account of a *firm's* "small balance" of *client money* at ■ CASS 7.13.21AR(1)(a):

(a) the *FCA* expects a *firm* that would not qualify to be a *CASS small firm* under the *rules* in ■ CASS 1A.2, ignoring any *safe custody assets* that it holds, to have difficulty in justifying using the approach in ■ CASS 7.13.21AR(1);

(b) a *firm* should calculate its *client money* balance for these purposes in the same way required under ■ CASS 1A.2.3R, and base its assessment under ■ CASS 7.13.21AR(1)(a) on either:

(i) the highest total amount of *client money* that it held during the year ending on the date of the assessment; or

(ii) if it did not hold *client money* in the previous calendar year, the highest total amount of *client money* that the *firm* projects it will hold during the year starting on the date of the assessment;

(c) this means that it may be possible for a *CASS medium firm* or a *CASS large firm* to justify using the approach in ■ CASS 7.13.21AR(1) on the basis of small *client money* balances; and

(d) in any case, a *firm* seeking to take that approach should also consider the points at ■ CASS 7.13.21AR(1)(b) and (c) as part of its assessment.

(2) In relation to the requirement under ■ CASS 7.13.21AR(2) to review the assessment under ■ CASS 7.13.21AR(1):

   (a) a *firm* should undertake a review and, where appropriate, consider whether to cease to use the approach in ■ CASS 7.13.21AR(1) when it becomes aware of a change in the circumstances that might have led the *firm* to a different conclusion on its previous assessment; and

   (b) in any case a *firm* should undertake a review at least one year after its previous assessment until it ceases to use the approach in ■ CASS 7.13.21AR(1).

(3) A *firm* may, subject to paragraph (2)(a), wish to perform the assessment and any periodic reviews under ■ CASS 7.13.21AR when the obligations under ■ CASS 1A.2.9R arise.

(4) Firms are reminded that, independent of ■ CASS 7.13.21AR, each *firm* is required by ■ CASS 1A.2.2R to determine once every year whether it is a *CASS large firm*, *CASS medium firm* or *CASS small firm*.

7.13.21C [R]   Where a *firm* decides following an assessment under ■ CASS 7.13.21AR(1) that it intends to use the approach under that *rule*, the *firm* must give the *FCA* notice of this upon reaching that decision and before it starts to use that approach.

   Where, following a review under ■ CASS 7.13.21AR(2) a *firm* decides that it will either cease to use the approach under ■ CASS 7.13.21AR(1) or continue to use it, it must give the *FCA* notice of this upon reaching that decision.

7.13.22 [R]   Subject to the requirement at ■ CASS 7.13.20 R, and in accordance with *Principle* 10 and ■ CASS 7.12.1 R, a *firm* must:

   (1) periodically review whether it is appropriate to diversify (or further diversify) the third parties with which it deposits some or all of the *client money* that the *firm* holds; and

   (2) whenever it concludes that it is appropriate to do so, it must make adjustments accordingly to the third parties it uses and to the amounts of *client money* deposited with them.

[**Note:** article 4(2) first sub-paragraph of the *MiFID Delegated Directive*]

7.13.23 [G]   In complying with the requirement in ■ CASS 7.13.22 R to periodically review whether diversification (or further diversification) is appropriate, a *firm* should have regard to:

   (1) whether it would be appropriate to deposit *client money* in *client bank accounts* opened at a number of different third parties;

   (2) whether it would be appropriate to limit the amount of *client money* the *firm* holds with third parties that are in the same *group* as each other;

(3) whether risks arising from the *firm's* business models create any need for diversification (or further diversification);

(4) the market conditions at the time of the assessment; and

(5) the outcome of any due diligence carried out in accordance with ■ CASS 7.13.8 R and ■ CASS 7.13.10 R.

7.13.24 **G** The rules in ■ SUP 16.14 provide that *CASS large firms* and *CASS medium firms* must report to the *FCA* in relation to the identity of the entities with which they deposit *client money* and the amounts of *client money* deposited with those entities. The *FCA* will use that information to monitor compliance with the diversification *rule* in ■ CASS 7.13.20 R.

7.13.25 **R** (1) A *firm* must make a record of the grounds upon which it satisfies itself as to the appropriateness of its selection and appointment of a bank or a *qualifying money market fund* under ■ CASS 7.13.8 R. The *firm* must make the record on the date it makes the selection or appointment and must keep it from that date until five years after the *firm* ceases to use that particular *person* for the purposes of depositing *client money* under ■ CASS 7.13.3 R.

(2) A *firm* must make a record of each periodic review of its selection and appointment of a bank or a *qualifying money market fund* that it conducts under ■ CASS 7.13.8 R, its considerations and conclusions. The *firm* must make the record on the date it completes the review and must keep it from that date until five years after the *firm* ceases to use that particular *person* for the purposes of depositing *client money* under ■ CASS 7.13.3 R.

(3) A *firm* must make a record of each periodic review that it conducts under ■ CASS 7.13.22 R, its considerations and conclusions. The *firm* must make the record on the date it completes out the review and must keep it for five years from that date.

Qualifying money market funds

7.13.26 **R** Where a *firm* deposits *client money* with a *qualifying money market fund*, the *firm's* holding of those units or shares in that fund will be subject to any applicable requirements of the *custody rules*.

[**Note:** recital 4 to the *MiFID Delegated Directive*]

7.13.27 **G** A *firm* that places *client money* in a *qualifying money market fund* should ensure that it has the *permissions* required to invest in and hold units in that fund and must comply with the *rules* that are relevant for those activities.

7.13.28 **R** (1) A *firm* must inform a *client* that *money* placed with a *qualifying money market fund* will not be held in accordance with the requirements for holding *client money*.

(2) A *firm* must ensure that, having provided the information to the *client* under (1), the *client* gives its explicit consent to the placement of their *money* in a *qualifying money market fund*.

[**Note:** article 4(2) third sub-paragraph to the *MiFID Delegated Directive*]

7.13.29 |G| [deleted]

7.13.29A |G| A *firm* may comply with ■ CASS 7.13.28 R(1) by informing the *client* that the units or shares in the *qualifying money market fund* will be held as *safe custody assets*.

Segregation in different currency

7.13.30 |R| A *firm* may segregate *client money* in a different currency from that in which it was received or in which the *firm* is liable to the relevant *client*. If it does so the *firm* must ensure that the amount held is adjusted each *day* 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.

Mixed remittance

7.13.31 |R| Except in the circumstances described in ■ CASS 7.13.72 R (1)(a), where a *firm* using the normal approach receives a *mixed remittance* it should:

(1) in accordance with ■ CASS 7.13.6 R, take necessary steps to ensure the *mixed remittance* is paid directly into a *client bank account*; and

(2) promptly and, in any event 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*.

Physical receipts of client money

7.13.32 |R| Where a *firm* receives *client money* in the form of cash, a cheque or other payable order, it must:

(1) pay the *money* in accordance with ■ CASS 7.13.6 R, promptly, and no later than on the *business day* after it receives the *money* into a *client bank account*, unless either:

(a) the *money* is received by a business line for which the *firm* uses the alternative approach, in which case the *money* must be paid into the *firm's* own bank account promptly, and no later than on the *business day* after it receives the *money*; or

(b) the *firm* is unable to meet the requirement in (1) because of restrictions under the *regulatory system* or law regarding the receipt and processing of *money*, in which case the *money* must be paid in accordance with ■ CASS 7.13.6 R as soon as possible;

(2) if the *firm* holds the *money* in the meantime before paying it in accordance with ■ CASS 7.13.6 R (or in the case of (1)(a), into its own

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bank account), hold it in a secure location in line with *Principle* 10; and

(3) in any case, record the receipt of the *money* in the *firm's* books and records in line with ■ CASS 7.15 (Records, accounts and reconciliations).

7.13.33　R　Where a *firm* receives *client money* in the form of a cheque that is dated with a future date, unless the *firm* returns the cheque it must:

(1) pay the *money* in accordance with ■ CASS 7.13.6 R, promptly, and no later than the date on the cheque if the date is a *business day* or the next *business day* after the date on the cheque;

(2) in the meantime, hold it in a secure location in accordance with *Principle* 10; and

(3) record the receipt of the *money* in the *firm's* books and records in accordance with ■ CASS 7.15 (Records, accounts and reconciliations).

Appointed representatives, tied agents, field representatives and other agents

7.13.34　R　A *firm* must ensure that *client money* received by its *appointed representatives*, *tied agents*, *field representatives* or other agents is:

(1) received directly into a *client bank account* of the *firm*, where this would have been required if such client money had been received by the *firm* otherwise than through its *appointed representatives*, *tied agents*, *field representatives* or other agents (see ■ CASS 7.13.6 R and ■ CASS 7.13.7 G); 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 *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 *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*.

7.13.35　G　Under ■ CASS 7.13.34 R (2)(b), *client money* received on *business day* one should be forwarded to the *firm* or specified business address of the *firm* promptly and, in any event, 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* in the form of a cheque to be sent to the *firm* or the specified business address of the *firm* by first class post and, in any event, no later than the next *business day* after receipt, would fulfil ■ CASS 7.13.34 R (2)(b).

Allocation of client money receipts

7.13.36　R　(1) A *firm* must allocate any *client money* it receives to an individual *client* promptly and, in any case, no later than ten *business days* following the receipt (or where subsequent to the receipt of *money* it

has identified that the *money*, or part of it, is *client money* under
■ CASS 7.13.37 R, no later than ten *business days* following that
identification).

(2) Pending a *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".

7.13.37 R   If a *firm* receives money (either in a *client bank account* or an account of its
own) which it is unable to immediately 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).

7.13.38 G   If a *firm* is unable to identify *money* that it has received as either *client
money* or its own *money* under ■ CASS 7.13.37 R, it should consider whether it
would be appropriate to return the *money* to the person who sent it or to
the source from where it was received (for example, the banking institution).

Money due to a client from a firm

7.13.38A R   ■ CASS 7.13.39R and ■ CASS 7.13.40G do not apply to a *firm* following a *primary
pooling event*.

7.13.38B G   ■ CASS 7A.2.10AR and ■ CASS 7A.2.10BG (Money due to a client from a firm
after a primary pooling event) apply to a *firm* following a *primary pooling
event* in respect of *money* due to a *client* from a *firm*.

7.13.39 R   Pursuant to the *client money segregation requirements*, a *firm* that is
operating the normal approach and is liable to pay *money* to a *client* must
promptly, and in any event no later than one *business day* after the *money* is
due and payable, pay the *money*:

(1) to, or to the order of, the *client*; or

(2) into a *client bank account*.

7.13.40 G   Where the *firm* has payment instructions from the *client* the *firm* should pay
the *money* to the order of the *client*, rather than into a *client bank account*.

Prudent segregation

7.13.40A R   (1) Subject to paragraph (2), ■ CASS 7.13.41R to ■ CASS 7.13.49R do not
apply to a *firm* following a *primary pooling event*.

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(2) If, at the time of a *primary pooling event*, a *firm* has retained *money* in a *client bank account* for the purposes of ■ CASS 7.13.41R, that *money* remains *client money* for the purposes of the *client money rules* and the *client money distribution and transfer rules*.

7.13.41 [R] If it is prudent to do so to prevent a *shortfall* in *client money* on the occurrence of a *primary pooling event*, a *firm* may pay *money* of its own into a *client bank account* and subsequently retain that *money* in the *client bank account* (*prudent segregation*). *Money* that the *firm* retains in a *client bank account* under this *rule* is *client money* for the purposes of the *client money rules* and the *client money distribution and transfer rules*.

7.13.42 [G] A *firm* must make and retain an up-to-date record of all payments made under ■ CASS 7.13.41 R. (See further ■ CASS 7.13.50 R to ■ CASS 7.13.53 R: the prudent segregation record.)

7.13.43 [R] If a *firm* intends to pays its own *money* into a *client bank account* under ■ CASS 7.13.41 R it must establish a written policy that is approved by its *governing body* (and retain such policy for a period of at least five years after the date it ceases to retain such *money* in a *client bank account* under ■ CASS 7.13.41 R) detailing:

(1) the specific anticipated risks in relation to which it would be prudent for the *firm* to make such payments into a *client bank account*;

(2) why the *firm* considers that the use of such a payment is a reasonable means of protecting *client money* against each of the risks set out in the policy; and

(3) the method that the *firm* will use to calculate the amount required to address each risk set out in the policy.

7.13.44 [R] The *firm* may amend its written policy to reflect changes in the specific anticipated risks in relation to which it would be prudent for the *firm* to make payments into a *client bank account* under ■ CASS 7.13.41 R.

7.13.45 [R] The *firm's* written policy must not conflict with the *client money rules* or the *client money distribution and transfer rules*. If there is a conflict, the *client money rules* and the *client money distribution and transfer rules* will prevail.

7.13.46 [G] In the event the *firm* faces a risk not contemplated under its current policy it will not be prevented from prudently segregating *money* as *client money* in accordance with these *rules* but the policy must be created or amended, as applicable, as soon as reasonably practicable.

7.13.47 [G] Examples of the types of risks that a *firm* may wish to provide protection for under ■ CASS 7.13.41 R include systems failures and business that is conducted on non-*business days* where the *firm* would be unable to pay any anticipated *shortfall* into its *client bank accounts*.

7.13.48 R To the extent that the *firm* no longer considers it prudent to retain *money* in its *client bank account* pursuant to ■ CASS 7.13.41 R in order to ensure that *client money* is protected, the *firm* may cease to treat that *money* as *client money*.

7.13.49 R Any *money* that the *firm* ceases to treat as client money pursuant to ■ CASS 7.13.48 R must be withdrawn from its *client bank account* as an excess under ■ CASS 7.15.29 R as part of its next reconciliation.

Prudent segregation record

7.13.49A R (1) Subject to paragraph (2), ■ CASS 7.13.50R to ■ CASS 7.13.52G do not apply to a *firm* following a *primary pooling event*.

(2) Where a *firm* holds a *prudent segregation record* under ■ CASS 7.13.53R following a *primary pooling event*, the *prudent segregation record* must continue to satisfy the requirements set out in ■ CASS 7.13.51R.

7.13.50 R A *firm* must create and keep up-to-date records so that the amount of *money* paid into *client bank accounts* and retained as *client money* pursuant to ■ CASS 7.13.41 R or withdrawn pursuant to ■ CASS 7.13.49 R, and the reasons for such payment, retention and withdrawal can be easily ascertained (the *prudent segregation record*).

7.13.51 R The *prudent segregation record* must record:

(1) the outcome of the *firm's* calculation of its *prudent segregation*;

(2) the amounts paid into or withdrawn from a *client bank account* pursuant to ■ CASS 7.13.41 R or ■ CASS 7.13.49 R;

(3) why each payment or withdrawal is made;

(4) in respect of the *firm's* written policy required by ■ CASS 7.13.43 R the *firm* must record, as applicable, either:

(a) that the payment or withdrawal is made in accordance with that policy; or

(b) that the policy will be created or amended to include the reasons for this payment or withdrawal;

(5) that the *money* was paid by the *firm* in accordance with ■ CASS 7.13.41 R or withdrawn by the *firm* in accordance with ■ CASS 7.13.49 R; and

(6) the up-to-date total amount of *client money* held pursuant to ■ CASS 7.13.41 R.

7.13.52 G *Firms* are reminded that payments and records made in accordance with ■ CASS 7.13.51 R should not be used as a substitute for a *firm* keeping accurate and timely records in accordance with ■ CASS 7.15 (Records, accounts and

reconciliations) and requirements under ■ SYSC 4.1.1 R (General requirements) and ■ SYSC 6.1.1 R (Compliance).

7.13.53   [R]   The *prudent segregation record* must be retained for five years after the *firm* ceases to retain *money* as *client money* pursuant to ■ CASS 7.13.41 R.

The alternative approach to client money segregation

7.13.53A   [R]
(1) Subject to paragraphs (2) and (3), ■ CASS 7.13.59R, ■ CASS 7.13.62R(3), ■ CASS 7.13.62R(4) and ■ CASS 7.13.63R to ■ CASS 7.13.67R do not apply to a *firm* following its *failure*.

(2) If, at the time of a *primary pooling event*, a *firm* has retained money in a *client bank account* for the purposes of *alternative approach mandatory prudent segregation* under ■ CASS 7.13.65R, that *money* remains *client money* for the purposes of the *client money rules* and the *client money distribution and transfer rules*.

(3) Where a *firm* holds an *alternative approach mandatory prudent segregation record* under ■ CASS 7.13.68R following a *primary pooling event*, the *alternative approach mandatory prudent segregation record* must continue to satisfy the requirements set out in ■ CASS 7.13.67R.

7.13.54   [G]
(1) In certain circumstances, use of the normal approach for a particular business line of a *firm* could lead to significant operational risks to *client money* protection. These may include a business line under which *clients*' transactions are complex, numerous, closely related to the *firm's* proprietary business and/or involve a number of currencies and time zones. In such circumstances, subject to meeting the relevant criteria and fulfilling the relevant notification and audit requirements, a *firm* may use the alternative approach to segregating *client money* for that business line.

(2) Under the alternative approach, *client money* is received into and paid out of a *firm's* own bank account. A *firm* that adopts the alternative approach to segregating *client money* should (in line with ■ CASS 7.15.16 R (2)) carry out an *internal client money reconciliation* on each *business day* ('T0') and calculate how much *money* it either needs to withdraw from, or place in from its own bank account or its *client bank account* as a result of any discrepancy arising between its *client money requirement* and its *client money resource* as at the close of business on the previous *business day* ('T-1').

(3) The *alternative approach mandatory prudent segregation* required under ■ CASS 7.13.65 R is designed to address the risks that:

    (a) *client money* in a *firm's* own bank account may not be available to be pooled for distribution to *clients* on the occurrence of a *primary pooling event*; and

    (b) at the time of a *primary pooling event* the *firm* may not have segregated in its *client bank account* a sufficient amount of *client money* to meet its *client money requirement*.

7.13.55 | R | A *firm* that wishes to adopt the alternative approach for a particular business line must first establish, and document in writing, its reasons for concluding, that:

(1) adopting the normal approach would lead to greater operational risks to *client money* protection compared to the alternative approach;

(2) adopting the alternative approach (including complying with the requirements for *alternative approach mandatory prudent segregation* under ■ CASS 7.13.65 R), would not result in undue operational risk to *client money* protection; and

(3) the *firm* has systems and controls that are adequate to enable it to operate the alternative approach effectively and in compliance with *Principle* 10 (Clients' assets).

7.13.56 | R | A *firm* must retain any documents created under ■ CASS 7.13.55 R in relation to a particular business line for a period of at least five years after the date it ceases to use the alternative approach in connection with that business line.

7.13.57 | R | At least three *months* before adopting the alternative approach for a particular business line, a *firm* must:

(1) inform the *FCA* in writing that it intends to adopt the alternative approach for that particular business line; and

(2) if requested by the *FCA*, make any documents it created under ■ CASS 7.13.55 R available to the *FCA* for inspection.

7.13.58 | R | (1) In addition to the requirement under ■ CASS 7.13.57 R, before adopting the alternative approach, a *firm* must send a written report to the *FCA* prepared by an independent auditor of the *firm* in line with a *reasonable assurance engagement*, stating the matters set out in (2).

(2) The written report in (1) must state whether, in the auditor's opinion:

(a) the *firm*'s systems and controls are suitably designed to enable it to comply with ■ CASS 7.13.62 R to ■ CASS 7.13.65 R; and

(b) the *firm*'s calculation of its *alternative approach mandatory prudent segregation* amount under ■ CASS 7.13.65 R is suitably designed to enable the *firm* to comply with ■ CASS 7.13.65 R.

7.13.59 | R | (1) A *firm* that uses the alternative approach must review, at least on an annual basis and with no more than one year between each review, whether its reasons for adopting the alternative approach for a particular business line, as documented under ■ CASS 7.13.55 R, continue to be valid.

(2) If, following the review in (1), a *firm* finds that its reasons for adopting the alternative approach are no longer valid for a particular business line, it must stop using the alternative approach for that

business line as soon as reasonably practicable, and in any event within six months of the conclusion of its review in (1).

7.13.60 **R** A *firm* that uses the alternative approach must not materially change how it will calculate and maintain the *alternative approach mandatory prudent segregation* amount under ■ CASS 7.13.65 R unless:

(1) an auditor of the *firm* has prepared a report that complies with the requirements in ■ CASS 7.13.58 R (2)(b) in respect of the *firm's* proposed changes; and

(2) the *firm* provides a copy of the report prepared by the auditor under (a) to the *FCA* before implementing the change.

7.13.61 **G** A *firm* is reminded that, under ■ SUP 3.4.2 R, it must take reasonable steps to ensure that its auditor has the required skill, resources and experience to perform its function.

7.13.62 **R** A *firm* that uses the alternative approach for a particular business line must, on each *business day* ('T0'):

(1) receive any *money* from and pay any *money* to (or, in either case, on behalf of) *clients* into and out of its own bank accounts;

(2) perform the necessary reconciliations of records and accounts required under ■ CASS 7.15 (Records, accounts and reconciliations);

(3) adjust the balances held in its *client bank account* (by effecting transfers between its own bank account and its *client bank account*) to address any difference arising between its *client money requirement* and its *client money resource* as at the close of business on the previous *business day* ('T-1'), so that the correct amount reflected in the reconciliations under (2) is segregated in its *client bank account*; and

(4) subject to CASS 7.13.63R below, keep segregated in its *client bank account* the balance held under (3) until it has performed a reconciliation on the following *business day* ('T+1') and as a result of that reconciliation is undertaking further adjustments under (3).

7.13.63 **R** During the period between the adjustment in ■ CASS 7.13.62 R (3) and the completion of the next reconciliations in ■ CASS 7.13.62 R (2), a *firm* that uses the alternative approach for a particular business line may:

(1) increase the balance held in its *client bank account* by making intra-day transfers (during T0) from its own bank account to its *client bank account* before the completion of the internal client money reconciliation under ■ CASS 7.13.62 R (2) (that is expected sometime later on T0) only if:

(a) the *firm* reasonably expects that the *client money requirement* for the previous *business day* (T-1) will increase above the *client money resource* currently (during T0) held in its *client bank account*; and

(b) such reasonable expectations are based on the working calculation of the *client money requirement* relating to the previous *business day* (T-1) that the firm has already determined on that *business day* (during T0) (as part of the process of completing its internal *client money* reconciliation); or

(2) decrease the balance held in its *client bank account* by making intra-day transfers (during T0) from its *client bank account* to its own bank account before the completion of the internal *client money* reconciliation under ■ CASS 7.13.62 R (2) (that is expected sometime later on T0) only if:

(a) the *firm* reasonably expects that the *client money requirement* for the previous *business day* (T-1) will decrease below the *client money resource* currently held (during T0) in its *client bank account*; and

(b) such reasonable expectations are based on the working calculation of the *client money requirement* relating to the previous *business day* (T-1) that the *firm* has already determined on that *business day* (during T0) (as part of the process of completing its *internal client money reconciliation*).

However, in doing so, a *firm* must act prudently and should take appropriate steps to manage the risk of not having segregated an amount that appropriately reflects its actual *client money requirement* at any given time.

7.13.64 |G| It is anticipated that ■ CASS 7.13.63 R may be used by *firms* which maintain *client bank accounts* in a number of different time zones and making adjustments to the balances of those *client bank accounts* is dependent on meeting cut off times for money transfers in those time zones.

7.13.65 |R| (1) A *firm* that uses the alternative approach must, in addition to ■ CASS 7.13.62 R, pay an amount (determined in accordance with this *rule*) of its own *money* into its *client bank account* and subsequently retain that *money* in its *client bank account* (*alternative approach mandatory prudent segregation*). The amount segregated by a *firm* in its *client bank account* under this *rule* is *client money* for the purposes of the *client money rules* and the *client money distribution and transfer rules*.

(2) The amount required to be segregated under this *rule* must be an amount that a *firm* reasonably determines would be sufficient, at the time it makes the determination, to protect *client money* against the risk that at any time in the following three months the following categories of *client money* may not have been fully segregated in its *client bank account* or may not be (or become) available for pooling under ■ CASS 7A.2.4R (1), were a *primary pooling event* to occur:

(a) *client money* that is received and held by the *firm* in its own bank account during the period between:

(i) the *firm's* adjustment of *client bank account* balances under ■ CASS 7.13.62 R (3) on a particular *business day*; and

(ii) the *firm's* subsequent adjustments under ■ CASS 7.13.62 R (3) on the following *business day*; and

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(b) *money* received and held by the *firm* in its own bank account which the *firm* does not initially identify as part of its *client money requirement*, but which subsequently does become part of its *client money requirement*;

with the effect that the *firm's alternative approach mandatory prudent segregation* under this *rule* will reduce, as far as possible, any *shortfall* that might have been produced as a result of (a) or (b) on the occurrence of a *primary pooling event*.

(3) (a) Subject to (c), in reaching its determination under (2) of the amount of *money* that would be sufficient to address the risks referred to in (2) for the forthcoming three months, a *firm* must take into account the following in respect of each business line for which it uses the alternative approach, and for at least the previous three months:

(i) the *firm's client money requirement* over the course of that prior period (excluding any amount that was required to be segregated under this *rule* during that prior period for the purposes of *alternative approach mandatory prudent segregation*);

(ii) the daily adjustment payments that the *firm* made into its *client bank account* under ■ CASS 7.13.62 R (3) during that prior period; and

(iii) the amount of *money* received by the *firm* in its own bank account which it did not initially identify as part of its *client money requirement*, but which subsequently, and during that prior period, became part of its *client money requirement*;

as shown in its internal records.

(b) In reaching its determination under (2) a *firm* must also take into account, but at all times having regard to the requirement under (2), any impact that particular events, the seasonal nature of each relevant business line, or any other aspect of those business lines may have on:

(i) the *firm's client money requirement* during the forthcoming three months for which the amount of *alternative approach mandatory prudent segregation* required under this *rule* is being determined;

(ii) the daily adjustment payments that the *firm* is likely to make into its *client bank account* under ■ CASS 7.13.62 R (3) in that same period; and

(iii) the amount of unidentified receipts of *money* that the *firm* is likely to receive into its own bank account and which will subsequently, in that same period, become part of its *client money requirement*.

(c) If, at the time of its determination under (2), the *firm* has not been trading for three months in a business line for which it is using the alternative approach, then it must use the records that are available to it and must also factor in reasonable forecasts, as required under (b), to establish a three-month reference period.

(4) (a) A *firm* must, at regular intervals that are at least quarterly, repeat and complete the combined process of:

      (i)   determining the amount that it is required to segregate for the purposes of *alternative approach mandatory prudent segregation* under (2) and (3);

      (ii) making necessary adjustments to its records to reflect any changes to its *client money requirement* (in accordance with ■ CASS 7.16.16 R (3) and ■ CASS 7.16.17 R (2)); and

      (iii) paying any additional amounts of its own *money* into its *client bank account* to increase the *firm's alternative approach mandatory prudent segregation* or withdrawing any excess amounts from its *client bank account* to decrease the *firm's alternative approach mandatory prudent segregation* after it has adjusted its records under (ii).

   (b) The combined process of (a)(i) to (iii) must take no longer than ten *business days*.

   (c) To the extent that a *firm's* compliance with (a)(i) and (ii) results in there being an excess in the *firm's client bank account*, the *firm* may cease to treat that *money* as client money.

(5) A *firm* must ensure that the individual responsible for *CASS* oversight under ■ CASS 1A.3.1 R, ■ CASS 1A.3.1A R or ■ CASS 1A.3.1C R (as appropriate) reviews the adequacy of the amount of the *firm's alternative approach mandatory prudent segregation* maintained under this *rule* at least annually.

7.13.66   **R**   A *firm* must create and keep up-to-date records so that any amount of *money* that is, pursuant to ■ CASS 7.13.65 R:

(1) paid into a *client bank account* and retained as *client money*; or

(2) withdrawn from a *client bank account*;

can be easily ascertained (the *alternative approach mandatory prudent segregation record*).

7.13.67   **R**   The *alternative approach mandatory prudent segregation record* under ■ CASS 7.13.66 R must record:

(1) the date of the first determination under ■ CASS 7.13.65 R (2) and each subsequent review undertaken under ■ CASS 7.13.65 R (4), and the total amount that the *firm* determined was required to be segregated under ■ CASS 7.13.65 R (2) as at that date;

(2) the date of any payment of the *firm's* own *money* into a *client bank account*, or withdrawal of any excess from a *client bank account* under ■ CASS 7.13.65 R, and for each such occasion:

   (a) the amount of the payment or withdrawal;

   (b) the fact that the *money* was paid or withdrawn by the firm in accordance with ■ CASS 7.13.65 R; and

   (c) as at that date, the total amount actually segregated by the *firm* under ■ CASS 7.13.65 R.

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7.13.68　R　The *alternative approach mandatory prudent segregation record* must be retained for five years after the *firm* ceases to segregate any *money* in accordance with ■ CASS 7.13.65 R.

7.13.69　G　Nothing in ■ CASS 7.13.54 G to ■ CASS 7.13.68 R prevents a *firm* from also making use of the *prudent segregation* rule in ■ CASS 7.13.41 R.

Use of the normal approach in relation to certain regulated clearing arrangements

7.13.70　G　■ CASS 7.13.72 R sets out the circumstances under which a *firm*, that would otherwise be required to comply with the requirement in ■ CASS 7.13.6 R to receive *client money* directly into a *client bank account*, must receive (or is permitted to receive) *client money* into its own bank account.

7.13.71　R　A *firm* that is also a *clearing member* that is using the normal approach in connection with *regulated clearing arrangements* must use reasonable endeavours to ensure it is not required under its arrangements with an *authorised central counterparty* to receive *mixed remittances* from or pay *mixed remittances* to the *authorised central counterparty* through a single bank account.

7.13.72　R　(1) If, notwithstanding its reasonable endeavours in accordance with ■ CASS 7.13.71 R, the *firm* is required under its arrangements with an *authorised central counterparty* to:

(a) receive *mixed remittances* from the *authorised central counterparty* into a single bank account and pay *mixed remittances* to the *authorised central counterparty* from that bank account; or

(b) pay *mixed remittances* to the *authorised central counterparty* using a single bank account;

then such arrangements for *client money* are permitted if the *firm* complies, as applicable, with (2) and ■ CASS 7.13.73 R.

(2) (a) In either or both of the circumstances described in (1):

(i) the *firm* must pay any *mixed remittances* to the *authorised central counterparty* from its own bank account; and

(ii) the *firm* is permitted to pay any remittances to the *authorised central counterparty* that consist only of *client money* from that same bank account.

(aa) In the circumstances described in (1)(a), the *firm* is permitted to receive any remittances that consist only of *client money* from the *authorised central counterparty* into the same bank account that it uses under (2)(a), if it complies with (b).

(b) Where, in the circumstances described in (1)(a), a *mixed remittance* or a remittance that consists only of *client money* from an *authorised central counterparty* is received into a *firm's* own account, the *firm* must transfer any *client money* element of the remittance to its *client bank account* promptly and, in any event, no later than the next *business day* after receipt.

7.13.72A R (1) Subject to paragraphs (2) and (3), ■ CASS 7.13.73R to ■ CASS 7.13.75R do not apply to a *firm* following a *primary pooling event*.

(2) If, at the time of a *primary pooling event*, a *firm* has retained *money* in a *client bank account* for the purposes of *clearing arrangement mandatory prudent segregation* under ■ CASS 7.13.73R, that *money* remains *client money* for the purposes of the *client money rules* and the *client money distribution and transfer rules*.

(3) Where a *firm* holds a *clearing arrangement mandatory prudent segregation record* under ■ CASS 7.13.76R following a *primary pooling event*, the *clearing arrangement mandatory prudent segregation record* must continue to satisfy the requirements set out in ■ CASS 7.13.75R.

7.13.73 R (1) Where the circumstances described in ■ CASS 7.13.72 R (1)(a) apply to a *firm* it must pay an amount (determined in accordance with this *rule*) of its own *money* into its *client bank account* and retain that *money* in its *client bank account* (*clearing arrangement mandatory prudent segregation*). The amount segregated by a *firm* in its *client bank account* under this *rule* will be *client money* for the purposes of the *client money rules* and the *client money distribution and transfer rules*.

(2) The amount required to be segregated under this *rule* must be an amount that a *firm* reasonably determines would be sufficient, at the time it makes the determination, to protect *client money* against the risk that at any time in the following three months *client money* received from the *authorised central counterparty* and held by the *firm* in its own bank account following receipt of these monies under ■ CASS 7.13.72 R (1)(a) and until their transfer in accordance with ■ CASS 7.13.72 R (2)(b) may not have been fully segregated in its *client bank account* or may not be (or become) available for pooling under ■ CASS 7A.2.4R (1), were a *primary pooling event* to occur with the effect that the *firm's clearing arrangement mandatory prudent segregation* under this *rule* will reduce, as far as possible, any *shortfall* that might have been produced as a result of this risk on the occurrence of a *primary pooling event*.

(3) (a) Subject to (c), in reaching its determination under (2) of the amount of *money* that would be sufficient to address the risks referred to in (2) for the forthcoming three months, a *firm* must take into account the following for at least the previous three months:

(i) the *firm's client money requirement* over the course of that prior period (excluding any amount that was required to be segregated under this *rule* during that prior period for the purposes of *clearing arrangement mandatory prudent segregation*); and

(ii) the payments that the firm made into its *client bank account* under ■ CASS 7.13.72 R (2)(b) during that prior period;

as shown in its internal records.

(b) In reaching its determination under (2) a *firm* must also take into account, at all times having regard to the requirement under (2),

any impact that particular events, the seasonal nature of each relevant business line, or any other aspect of those business line(s) may have on:

    (i) the *firm's client money requirement* during the forthcoming three months for which the amount of *clearing arrangement mandatory prudent segregation* required under this *rule* is being determined; and

    (ii) the payments that the *firm* is likely to make into its *client bank account* under ■ CASS 7.13.72 R (2)(b).

(c) If, at the time of its determination under (2), the *firm* has not been trading for three months in a business line for which it is using the normal approach in connection with *regulated clearing arrangements*, then it must use the records that are available to it and must also factor in reasonable forecasts, as required under (b), to make up a three-month reference period.

(4) (a) A *firm* must, at regular intervals that are at least quarterly, repeat and complete the combined process of:

    (i) determining the amount that it is required to segregate for the purposes of *clearing arrangement mandatory prudent segregation* under (2) and (3);

    (ii) making necessary adjustments to its records to reflect any changes to its *client money requirement* in accordance with ■ CASS 7.16.16 R (3) and ■ CASS 7.16.17 R (1); and

    (iii) paying any additional amounts of its own *money* into its *client bank account* to increase the *firm's clearing arrangement mandatory prudent segregation* or withdrawing any excess amounts from its *client bank account* to decrease the *firm's clearing arrangement mandatory prudent segregation* after it has adjusted its records under (ii).

(b) The combined process of (a)(i) to (iii) must take no longer than ten *business days*.

(c) To the extent that a *firm's* compliance with (a)(i) and (ii) results in there being an excess in the *firm's client bank account*, the *firm* may cease to treat that *money* as *client money*.

(5) A *firm* must ensure that the individual responsible for *CASS* oversight under ■ CASS 1A.3.1 R, ■ CASS 1A.3.1A R or ■ CASS 1A.3.1C R (as appropriate) reviews the adequacy of the amount of the *firm's clearing arrangement mandatory prudent segregation* maintained under this *rule* at least annually.

Clearing arrangement mandatory prudent segregation record

7.13.74   **R**   A *firm* must create and keep up-to-date records so that any amount of *money* that is, pursuant to ■ CASS 7.13.73 R:

(1) paid into a *client bank account* and retained as *client money*; or

(2) withdrawn from a *client bank account*;

can be easily ascertained (the *clearing arrangement mandatory prudent segregation record*).

7.13.75 R The *clearing arrangement mandatory prudent segregation record* under ■ CASS 7.13.74 R must record:

(1) the date of the first determination under ■ CASS 7.13.73 R (2) and each subsequent review undertaken under ■ CASS 7.13.73 R (4), and the total amount that the *firm* determined was required to be segregated under ■ CASS 7.13.73 R (2) as at that date;

(2) the date of any payment of the *firm's* own *money* into a *client bank account*, or withdrawal of any excess from a *client bank account* under ■ CASS 7.13.73 R (4)(a)(iii), and for each such occasion:

(a) the amount of the payment or withdrawal;

(b) the fact that the *money* was paid or withdrawn by the *firm* in accordance with ■ CASS 7.13.73 R; and

(c) as at that date, the total amount actually segregated by the *firm* under ■ CASS 7.13.73 R.

7.13.76 R The *clearing arrangement mandatory prudent segregation record* must be retained for five years after the *firm* ceases to segregate any *money* in accordance with ■ CASS 7.13.73 R.

7.13.77 G Nothing in ■ CASS 7.13.73 R to ■ CASS 7.13.76 R prevents a *firm* from making use of the prudent segregation rule in ■ CASS 7.13.41 R.

7.13.78 G The obligation to use reasonable endeavours referred to in ■ CASS 7.13.71 R is a continuing obligation. *Firms* should at least on an annual basis, whether it is possible for payments of *client money* between the *firm* and the *authorised central counterparties* to be made separately from house monies and for such payments to be received into and made from its *client bank accounts*.

7.13.79 G Where a *firm* operates a sub-pool in accordance with ■ CASS 7.19 (Clearing member client money sub-pools), the references to *client bank accounts* in ■ CASS 7.13.70 G to ■ CASS 7.13.78 G should be read as *client bank accounts* pertaining to the relevant *sub-pool*.

7.14 Client money held by a third party

7.14.1 |G| This section sets out the requirements a *firm* must comply with when it allows another *person* to hold *client money*, other than under ■ CASS 7.13.3 R, without discharging its fiduciary duty to that *client*. Such circumstances arise when, for example, a *firm* passes *client money* to a *clearing house* in the form of margin for the *firm's* obligations to the *clearing house* that are referable to transactions undertaken by the *firm* for the relevant clients. They may also arise when a *firm* passes *client money* to an *intermediate broker* for *contingent liability investments* in the form of initial or variation margin on behalf of a *client*. In these circumstances, the *firm* remains responsible for that *client equity balance* held at the *intermediate broker* until the contract is terminated and all of that *client's* positions at that *broker* closed. Similarly, this section applies where a *firm* allows a *broker* to hold *client money* in respect of the *firm's client's non-margined transactions*, again without the *firm* discharging its fiduciary duty to that *client*. In all cases, if a *firm* wishes to discharge itself from its fiduciary duty, it should do so in accordance with the *rule* regarding the discharge of a *firm's* fiduciary duty to the *client* (■ CASS 7.11.34 R).

7.14.2 |R| A *firm* may allow another *person*, such as an exchange, a *clearing house* or an *intermediate broker*, to hold *client money*, but only if:

  (1) the *firm* allows that *person* to hold the *client money*:

   (a) for the purpose of one or more transactions for a *client* through or with that *person*; or

   (b) to meet a *client's* obligation to provide collateral for a transaction (for example, an *initial margin* requirement for a *contingent liability investment*); and

  (2) in the case of a *retail client*, that *client* has been notified that the *firm* may allow the other *person* to hold its *client money*.

7.14.3 |G| *Client money* that a *firm* allows another person to hold under ■ CASS 7.14.2 R:

  (1) should only be held for transactions which are likely to occur (and for which the other *person* needs to receive *client money*) or have recently settled (and such that the other *person* has received *client money*); and

  (2) should be recorded in *client transaction accounts* by that other *person*.

7.14.4 |G| Apart from *client money* held by a *firm* in an *individual client account* or an *omnibus client account* at an *authorised central counterparty*, a *firm* should not hold excess *client money* in its *client transaction accounts*.

Client money arising from, or in connection with, safe custody assets

7.14.5 |G| (1) *Money* arising from, or in connection with, the holding of a *safe custody assets* by a *firm* which is due to *clients* should, unless treated otherwise under the *client money rules*, be treated as *client money* by the *firm*.

(2) *Firms* are reminded of the *guidance* in ■ CASS 6.1.2 G.

7.14.6 |R| If a *firm* has deposited *safe custody assets* with a third party under ■ CASS 6.3 and *client money* arises from, or in connection with, those *safe custody assets* then the *firm* must ensure that the third party either deposits the money in a *client bank account* of the *firm* or records it in a *client transaction account* for the benefit of the *firm clients* as appropriate.

7.14.7 |G| *Firms* are reminded of the *guidance* in ■ CASS 7.14.4 G which is applicable to *client transaction accounts*.

7.14.8 |G| If the third party holding the *safe custody assets* under ■ CASS 7.14.6 R is a bank with which the *firm* is permitted to deposit *client money* under ■ CASS 7.13.3 R, then the *client bank account* referred to in ■ CASS 7.14.6 R may be an account with that bank.

7.14.9 |G| *Firms* are reminded of the requirements under ■ CASS 7.18 for *acknowledgement letters*, which must be complied with before using *client bank accounts* and *client transaction accounts*.

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7.15 Records, accounts and reconciliations

7.15.1 **G** (1) This section sets out the requirements a *firm* must meet when keeping records and accounts of the *client money* it holds.

(2) Where a *firm* establishes one or more *sub-pools*, the provisions of ■ CASS 7.15 (Records, accounts and reconciliations) shall be read as applying separately to the *firm's general pool* and each *sub-pool* in line with ■ CASS 7.19.3 R and ■ CASS 7.19.4 R.

7.15.2 **R** A *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.

[**Note:** article 2(1)(a) of the *MiFID Delegated Directive*]

7.15.3 **R** A *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 *clients* and that they may be used as an audit trail.

[**Note:** article 2(1)(b) of the *MiFID Delegated Directive*]

7.15.4 **G** (1) The requirements in ■ CASS 7.15.2R to ■ CASS 7.15.3R are for a *firm* to keep internal records and accounts of *client money*. Therefore, any records falling under those requirements should be maintained by the *firm* and should be separate to any records the *firm* may have obtained from any third parties, such as those with or through whom it may have deposited, or otherwise allowed to hold, *client money*.

(2) Where a *firm* complies with ■ CASS 7.15 as a whole (to the extent applicable to that *firm*) this will be sufficient to comply with the specific duty in ■ CASS 7.15.3R to maintain its records and accounts in a way that ensures that they can be used as an audit trail.

Record keeping

7.15.5 **R** (1) A *firm* must maintain records so that it is able to promptly determine the total amount of *client money* it should be holding for each of its *clients*.

(2) A *firm* must ensure that its records are sufficient to show and explain its transactions and commitments for its *client money*.

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(3) Unless otherwise stated, a *firm* must ensure that any record made under the this chapter is retained for a period of five years starting from the later of:

  (a) the date it was created; and

  (b) (if it has been modified since the date it was created), the date it was most recently modified.

7.15.6 | G | Unless required sooner under another *rule* in this chapter, in complying with ■ CASS 7.15.5 R (1) a *firm* should ensure it is able to determine the total amount of *client money* it should be holding for each *client* within two *business days* of having taken a decision to do so or at the request of the *FCA*.

7.15.7 | R | For each *internal client money reconciliation* and *external client money reconciliation* the *firm* conducts, it must ensure that it records:

  (1) the date it carried out the relevant process;

  (2) the actions the *firm* took in carrying out the relevant process; and

  (3) the outcome of its calculation of its *client money requirement* and *client money resource*.

Policies and procedures

7.15.8 | G | *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* under this chapter. This should include, for example, establishing and maintaining policies and procedures concerning:

  (1) the frequency and method of the reconciliations the *firm* is required to carry out under this section;

  (2) the resolution of reconciliation discrepancies under this section; and

  (3) the frequency at which the *firm* is required to review its arrangements in compliance with this chapter.

Receipts of client money

7.15.9 | R | A *firm* must maintain appropriate records that account for all receipts of *client money* in the form of cash, cheque or other payable order that are not yet deposited in a *client bank account* (see ■ CASS 7.13.32 R and ■ CASS 7.13.33 R).

7.15.10 | G | *Firms* following one of the standard methods of internal client money reconciliation in ■ CASS 7.16 are also reminded that they must, as part of their *internal client money reconciliation*, take into account all receipts of *client money* in the form of cash, cheque or other payable order that are not yet deposited in a *client bank account* (see ■ CASS 7.13.32 R and ■ CASS 7.13.33 R).

Payments made to discharge fiduciary duty

7.15.11 **R** If a *firm* draws a cheque, or other payable order, to discharge its fiduciary duty to its *clients* (see ■ CASS 7.11.40 R), it must continue to record its obligation to its *clients* until the cheque, or other payable order, is presented and paid by the bank.

Internal client money reconciliations

7.15.12 **R** An *internal client money reconciliation* requires a *firm* to carry out a reconciliation of its internal records and accounts of the amount of *client money* that the *firm* holds for each *client* with its internal records and accounts of the *client money* the *firm* should hold in *client bank accounts* or has placed in *client transaction accounts*.

7.15.13 **R** In carrying out an *internal client money reconciliation*, a *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 banks and other third parties with whom it has placed *client money* (for example, bank statements).

7.15.14 **G** An *internal client money reconciliation* should:

(1) be one of the steps a *firm* takes to arrange adequate protection for *clients'* assets when the *firm* is responsible for them (see *Principle* 10 (Clients' assets), as it relates to *client money*);

(2) be one of the steps a *firm* takes to satisfy its obligations under ■ CASS 7.12.2 R and ■ CASS 7.15.3 R and, where relevant, ■ SYSC 4.1.1R (1) and ■ SYSC 6.1.1 R, to ensure the accuracy of the *firm's* records and accounts;

(3) for the normal approach to segregating *client money* (■ CASS 7.13.6 R), check whether the amount of *client money* recorded in the *firm's* records as being segregated in *client bank accounts* meets the *firm's* obligations to its *clients* under the *client money rules* on a daily basis; and

(4) for the alternative approach to segregating *client money* (■ CASS 7.13.62 R), calculate the amount of *client money* to be segregated in *client bank accounts* which meets the *firm's* obligations to its *clients* under the *client money rules* on a daily basis.

7.15.15 **R** (1) Subject to paragraph (4), a *firm* must perform an *internal client money reconciliation*:

(a) each *business day*; and

(b) based on the records of the *firm* as at the close of business on the previous *business day*.

(2) When performing an *internal client money reconciliation*, a *firm* must, subject to (3), follow one of the *standard methods of internal client money reconciliation* in ■ CASS 7.16.

(3) A *firm* proposing to follow a *non-standard method of internal client money reconciliation* must comply with the requirements in ■ CASS 7.15.17 R to ■ CASS 7.15.19 G.

(4) Following a *primary pooling event*, and in addition to any obligations of a special administrator under regulation 10H of the *IBSA Regulations*:

(a) a *firm* must perform an *internal client money reconciliation* that relates to the time of the *primary pooling event* as soon as reasonably practicable after the *primary pooling event*; and

(b) the *firm* must perform further *internal client money reconciliations* as regularly as required under paragraph (5), based on the records of the *firm* as at the close of business on the *business day* before the day on which the reconciliation takes place.

(5) A *firm* must determine when and how often to perform an *internal client money reconciliation* under paragraph (4)(b) so as to ensure that:

(a) the *firm* remains in compliance with ■ CASS 7.15.2R, ■ CASS 7.15.3R and ■ CASS 7.15.5R(1) and (2) (Record keeping); and

(b) the correct amounts of *client money* are returned to *clients* or transferred on behalf of *clients* under the *client money distribution and transfer rules*.

7.15.15A G (1) The reference point for the *internal client money reconciliation* under ■ CASS 7.15.15R(4)(a) should be the precise point in time at which the *primary pooling event* occurred.

(2) When a *firm* decides whether it is necessary at any particular point in time to perform an *internal client money reconciliation* under ■ CASS 7.15.15R(4)(b), it should have particular regard to the need to maintain its books and accounts in order to ensure that:

(a) each notional *pool* of *client money* formed under ■ CASS 7A.2.4R(1) and (1A) (Pooling and distribution or transfer) is correctly composed and maintained, and is treated separately;

(b) *client money* that is required under ■ CASS 7A.2.4R(3) (Pooling and distribution or transfer) and ■ CASS 7A.2.7-AR (Client money received after a primary pooling event) to be treated as outside of any notional *pool* is treated accordingly; and

(c) where applicable, *clients'* entitlements to their *client money* are calculated in accordance with ■ CASS 7A.2.5R(-2)(b) (Client money entitlements).

(4) Depending on the circumstances of the *firm* and the scale, frequency and nature of activity after a *primary pooling event* that affects *client money*, a *firm* may conclude that it is necessary to continue performing *internal client money reconciliations* each *business day* for a period of time after the *primary pooling event*.

7.15.16 R (1) A *firm* which has adopted the normal approach to segregating *client money* (see ■ CASS 7.13.6 R) must use the *internal client money*

reconciliation to check whether its *client money resource*, as at the close of business on the previous *business day*, was equal to its *client money requirement* at the close of business on that previous day.

(2) A *firm* that adopts the alternative approach to segregating *client money* (see ■ CASS 7.13.54 G) must use the *internal client money reconciliation* to ensure that its *client money resource* as at the close of business on any *day* it carries out an *internal client money reconciliation* is equal to its *client money requirement* at the close of business on the previous day.

Non-standard method of internal client money reconciliation

7.15.17   R   A *non-standard method of internal client money reconciliation* is a method of *internal client money reconciliation* which does not meet the requirements in ■ CASS 7.16 (The standard methods of internal client money reconciliation).

7.15.18   R

(1) Before using a *non-standard method of internal client money reconciliation*, a *firm* must:

   (a) establish and document in writing its reasons for concluding that the method of *internal client money reconciliation* it proposes to use will:

      (i) (for the normal approach to segregating *client money*) check whether the amount of *client money* recorded in the *firm's* records as being segregated in *client bank accounts* meets the *firm's* obligation to its *clients* under the *client money rules* on a daily basis; or

      (ii) (for the alternative approach to segregating *client money*) calculate the amount of *client money* to be segregated in *client bank accounts* which meets the *firm's* obligations to its *clients* under the *client money rules* on a daily basis;

   (b) notify the *FCA* of its intentions to use a *non-standard method of internal client money reconciliation*; and

   (c) send a written report to the *FCA* prepared by an independent auditor of the *firm* in line with a *reasonable assurance engagement* and stating the matters set out in (2).

(2) The written report in (1)(c) must state whether in the auditor's opinion:

   (a) the method of *internal client money reconciliation* which the *firm* will use is suitably designed to enable it to (as applicable):

      (i) (for the normal approach to segregating *client money*) check whether the amount of *client money* recorded in the *firm's* records as being segregated in *client bank accounts* meets the *firm's* obligation to its *clients* under the *client money rules* on a daily basis; or

      (ii) (for the alternative approach to segregating *client money*) calculate the amount of *client money* to be segregated in *client bank accounts* which meets the *firm's* obligations to its *clients* under the *client money rules* on a daily basis; and

(b) the *firm's* systems and controls are suitably designed to enable it
to carry out the method of *internal client money reconciliation*
the *firm* will use.

(3) A *firm* using a *non-standard method of internal client money
reconciliation* must not materially change its method of undertaking
internal client money reconciliations unless:

(a) the *firm* has established and documented in writing it reasons for
concluding that the changed methodology will meet the
requirements in (1)(a)(i) and (ii), as applicable;

(b) an auditor of the *firm* has prepared a report that complies with
the requirements in (1)(c) and (2) in respect of the *firm's*
proposed changes; and

(c) the *firm* provides a copy of the report prepared by the auditor
under (2) to the *FCA* before implementing the change .

7.15.19 |G| A *firm* is reminded that, under ■ SUP 3.4.2 R, it must take reasonable steps to
ensure that its auditor has the required skill, resources and experience to
perform its function.

External client money reconciliations

7.15.20 |R| A *firm* must conduct, on a regular basis, reconciliations between its internal
records and accounts and those of any third parties which hold *client money*.

[**Note**: article 2(1)(c) of the *MiFID Delegated Directive*]

7.15.21 |G| The purpose of an *external client money reconciliation* is to ensure the
accuracy of a *firm's* internal records and accounts against those of any third
parties by whom *client money* is held.

Frequency of external client money reconciliations

7.15.21A |R| ■ CASS 7.15.22R to ■ 7.15.26R do not apply to a *firm* following a *primary
pooling event*.

7.15.21B |G| ■ CASS 7.15.26AR applies to a *firm* following a *primary pooling event*.

7.15.22 |R| A *firm* must perform an *external client money reconciliation*:

(1) as regularly as is necessary but without allowing more than one
month to pass between each *external client money reconciliation*; and

(2) as soon as reasonably practicable after the date to which the *external
client money reconciliation* relates.

7.15.23 |R| When determining the frequency at which it will undertake *external client
money reconciliations*, a *firm* must have regard to:

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(1) the frequency, number and value of transactions which the *firm* undertakes in respect of *client money*; and

(2) the risks to which the *client money* is exposed, such as the nature, volume and complexity of the *firm's* business and where and with whom *client money* is held.

7.15.24   **R**   (1) A *firm* must make and retain records sufficient to show and explain any decision it has taken under ■ CASS 7.15.23 R when determining the frequency of its *external client money reconciliation*. Subject to (2), any such records must be retained indefinitely.

(2) If any decision under ■ CASS 7.15.23 R is superseded by a subsequent decision under that rule then the record of that earlier decision retained in accordance with (1) need only be retained for a further period of five years from the subsequent decision.

7.15.25   **G**   In most circumstances, *firms* which undertake transactions on a daily basis should conduct an *external client money reconciliation* each *business day*.

7.15.26   **R**   (1) Subject to (3), a *firm* must review the frequency it conducts its *external client money reconciliations* at least annually to ensure that it continues to comply with ■ CASS 7.15.22 R and has given due consideration to the matters in ■ CASS 7.15.23 R.

(2) For each review a *firm* undertakes under (1), it must record the date and the actions it took in reviewing the frequency of its *external client money reconciliations*.

(3) A *firm* need not carry out a review under (1) if it is conducting *external client money reconciliations* each *business day*.

Frequency of external reconciliations after a primary pooling event

7.15.26A   **R**   Following a *primary pooling event*, and in addition to any obligations of a special administrator under regulation 10H of the *IBSA Regulations*:

(1) a *firm* must perform an *external client money reconciliation* that relates to the time of the *primary pooling event* as soon as reasonably practicable after the *primary pooling event*, based on the next available statements or other form of confirmation after the *primary pooling event* from:

(a) the banks with which the *firm* holds a *client bank account*; and

(b) the *persons* with which the *firm* holds a *client transaction account*; and

(2) the *firm* must perform further *external client money reconciliations* on a regular basis:

(a) with a suitable frequency to ensure that the correct amounts of *client money* are returned to *clients* or transferred on behalf of *clients* under the *client money distribution and transfer rules*; and

(b) as soon as reasonably practicable after the date to which the *external client money reconciliation* relates.

7.15.26B [G] The reference point for the *external client money reconciliation* under ■ CASS 7.15.26AR(1) should be the precise point in time at which the *primary pooling event* occurred.

7.15.26C [R] When determining the frequency with which it will undertake *external client money reconciliations* under ■ CASS 7.15.26AR(2) after a *primary pooling event*, a *firm* must have regard to:

(1) the frequency, number and value of transactions which the *firm* undertakes in respect of *client money*;

(2) the risks to which the *client money* is exposed, such as the nature, volume and complexity of the *firm's* business and where and with whom *client money* is held; and

(3) the need to be able to verify that:

client money within each notional *pool* formed under ■ CASS 7A.2.4R(1) and (1A) (Pooling and distribution or transfer), and *client money* that is required under ■ CASS 7A.2.4R(3) (Pooling and distribution or transfer) and ■ CASS 7A.2.7-AR (Client money received after a primary pooling event) to be treated as outside of any notional *pool*, has not been incorrectly distributed, transferred or dissipated; and

the proceeds of any payments and transactions that settle after the *primary pooling event* and which involve *client money*, including interest payments and other amounts included in the *client money resource*, have been received correctly.

Method of external client money reconciliations

7.15.27 [R] An *external client money reconciliation* requires a *firm* to:

(1) compare:

(a) the balance, currency by currency, on each *client bank account* recorded by the *firm*, as set out in the most recent statement or other form of confirmation issued by the bank with which those accounts are held; and

(b) the balance, currency by currency, on each *client transaction account* as recorded by the *firm*, as set out in the most recent statement or other form of confirmation issued by the *person* with whom the account is held; and

(2) promptly identify and resolve any discrepancies between those balances under ■ CASS 7.15.31 R and ■ CASS 7.15.32 R.

7.15.28 [R] A *firm* must ensure it includes the following items within its *external client money reconciliation*:

(1) any *client's approved collateral* a *firm* holds which secures an
individual negative *client equity balance* (see ■ CASS 7.16.32 R); and

(2) any of its own *approved collateral* a *firm* holds which is used to meet
the total margin transaction requirement in ■ CASS 7.16.33 R.

Reconciliation discrepancies

7.15.29   R   When a discrepancy arises between a *firm's client money resource* and its
client money requirement identified by a *firm's internal client money
reconciliations*, the *firm* must determine the reason for the discrepancy and,
subject to ■ CASS 7.15.29AR, ensure that:

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

(2) any excess is withdrawn from a *client bank account* within the same
time period.

7.15.29A   R   A *firm* that has *failed* is not required to make a payment or withdrawal
under ■ CASS 7.15.29R(1) or ■ CASS 7.15.29R(2) respectively in so far as the legal
procedure for the *firm's failure* restricts the *firm* from doing so.

7.15.30   G   Where the discrepancy identified under ■ CASS 7.15.29 R has arisen as a result
of a breach of the *client money segregation requirements*, the *firm* should
ensure it takes sufficient steps to avoid a reoccurrence of that breach (see
Principle 10 (Clients' assets), as it relates to *client money*, ■ CASS 7.15.3 R and,
where relevant, ■ SYSC 4.1.1R (1) and ■ SYSC 6.1.1 R).

7.15.31   R   If any discrepancy is identified by an *external client money reconciliation*, the
firm must investigate the reason for the discrepancy and take all reasonable
steps to resolve it without undue delay, 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*.

7.15.32   R   While a *firm* is unable to immediately resolve a discrepancy identified by an
external client money reconciliation, and one record or set of records
examined by the *firm* during its *external client money reconciliation* indicates
that there is a need to have a greater amount of *client money* or, if
appropriate, *approved collateral* than is the case, the *firm* must assume, until
the matter is finally resolved, that that record or set of records is accurate
and, subject to ■ CASS 7.15.32AR, pay its own *money* into a relevant account.

7.15.32A   R   A *firm* that has *failed* is not required to pay its own *money* into a relevant
account under ■ CASS 7.15.32R in so far as the legal procedure for the *firm's*
failure restricts the *firm* from doing so.

7.15.32B   G   (1) ■ CASS 7.15.29AR and ■ CASS 7.15.32AR recognise that a *failed firm* is
required to investigate discrepancies, but the extent to which it is
able to resolve discrepancies may be limited by insolvency law, for
example.

(2) ■ CASS 7.15.29AR and ■ CASS 7.15.32AR would not prevent a *failed firm* from making any transfers required under regulation 10H(3) or (4) of the *IBSA Regulations*.

Notification requirements

7.15.33 R A *firm* must inform the *FCA* in writing without delay if:

(1) its internal records and accounts of *client money* are materially out of date, inaccurate or invalid so that the *firm* is no longer able to comply with the requirements in ■ CASS 7.15.2 R, ■ CASS 7.15.3 R or ■ CASS 7.15.5 R (1);

(2) it will be unable to, or materially fails to, pay any *shortfall* into a *client bank account* or withdraw any excess from a *client bank account* so that the *firm* is unable to comply with ■ CASS 7.15.29 R after having carried out an *internal client money reconciliation*;

(3) it will be unable to, or materially fails to, identify and resolve any discrepancies under ■ CASS 7.15.31 R to ■ CASS 7.15.32 R after having carried out an *external client money reconciliation*;

(4) it will be unable to, or materially fails to, conduct an *internal client money reconciliation* in compliance with ■ CASS 7.15.12 R and ■ CASS 7.15.15 R;

(5) it will be unable to, or materially fails to, conduct an *external client money reconciliation* in compliance with ■ CASS 7.15.20 R to ■ CASS 7.15.28 R; and

(6) 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* under the *client money segregation requirements*.

Annual audit of compliance with the client money rules

7.15.34 G *Firms* are reminded that the auditor of the *firm* has to confirm in the report submitted to the *FCA* under ■ SUP 3.10 (Duties of auditors: notification and report on client assets) that the *firm* has maintained systems adequate to enable it to comply with the *client money rules*.

7

7.16 The standard methods of internal client money reconciliation

7.16.1 **G** (1) *Firms* are required to carry out an *internal client money reconciliation* each *business day* (■ CASS 7.15.12 R and ■ CASS 7.15.15R(1)) or as required by ■ CASS 7.15.15R(4) after a *primary pooling event*. This section sets out methods of reconciliation that are appropriate for these purposes (the *standard methods of internal client money reconciliation*).

(2) Where a *firm* establishes one or more *sub-pools*, the provisions of ■ CASS 7.16 (The standard methods of internal client money reconciliation) shall be read as applying to the *firm's general pool* and each *sub-pool* individually, in line with ■ CASS 7.19.3 R and ■ CASS 7.19.4 R.

7.16.2 **G** (1) A *non-standard method of internal client money reconciliation* is a method of *internal client money reconciliation* which does not meet the requirements of this section.

(2) Where a *firm* uses a *non-standard method of internal client money reconciliation* it is reminded that it must comply with the requirements in ■ CASS 7.15.18 R.

7.16.3 **G** Regardless of whether a *firm* is following one of the *standard methods of internal client money reconciliation* or a *non-standard method of internal client money reconciliation*, it is reminded that it must maintain its records so that it is able to promptly calculate the total amount of *client money* it should be holding for each *client* (see ■ CASS 7.15.15 R (1)).

7.16.4 **G** *Firms* are reminded that the *internal client money reconciliation* should achieve the purposes set out in ■ CASS 7.15.14 G.

7.16.5 **G** (1) A *firm* that adopts the normal approach to segregating *client money* (■ CASS 7.13.6 R) will be using the methods in this section to check whether it has correctly segregated *client money* in its *client bank accounts*.

(2) A *firm* that adopts the alternative approach to segregating *client money* (■ CASS 7.13.54 G) will be using the methods in this section to calculate how much *money* it needs to withdraw from, or place in, *client bank accounts* as a result of any discrepancy arising between its

client money requirement and its *client money resource* at the close of business on the previous *business day*.

7.16.6 **G** Unless otherwise stated, *firms* are reminded that they are required to receive all *client money* receipts directly into a *client bank account* (see ■ CASS 7.13.6 R).

7.16.7 **G** A *firm* that receives *client money* in the form of cash, a cheque or other payable order is reminded that it must pay that *money* (eg, into a *client bank account*) no later than on the *business day* after it receives the *money* (see ■ CASS 7.13.32 R). Once deposited into a *client bank account*, that receipt of *client money* should form part of the *firm's client money resource* (see ■ CASS 7.16.8 R). In calculating its *client money requirement*, a *firm* will need to take into account any *client money* received as cash, cheques or payment orders but not yet deposited into a *client bank account* (see ■ CASS 7.16.25 R (3) and ■ CASS 7.16.26 G).

Client money resource

7.16.8 **R** The *client money resource* is the aggregate balance on the *firm's client bank accounts*.

7.16.9 **G** (1) A *firm* should ensure that the amount it reflects in its *internal client money reconciliation* as its *client money resource* is equal to the aggregate balance on its *client bank accounts*. For example, if:

(a) a *firm* holds *client money* received as cash, cheques or payment orders but not yet deposited in a *client bank account* (in accordance with ■ CASS 7.13.32 R); and

(b) that *firm* records all receipts from *clients*, whether or not yet deposited with a bank, in its cashbook (see ■ CASS 7.16.26 G (1)(a));

its *client money resource* should not include the cash, cheques or payment orders received but not yet deposited in a *client bank account*.

(2) The *guidance* in (1) is consistent with a *firm's* obligations to maintain its internal records in an accurate way, particularly their correspondence to the *client money* held for *clients*.

Client money requirement

7.16.10 **R** Subject to ■ CASS 7.16.12 R, the *client money requirement* must be calculated by one, but not both, of the following of two methods:

(1) the *individual client balance method* (■ CASS 7.16.16 R); or

(2) the *net negative add-back method* (■ CASS 7.16.17 R).

7.16.11 **R** The *net negative add-back method* may only be used, under this section, by a *CASS 7 asset management firm* or a *CASS 7 loan-based crowdfunding firm* and only if such *firms* do not undertake any *margined transactions* for, or on behalf of, their *clients*.

7

7.16.12 | R | A *CASS 7 loan-based crowdfunding firm* must not use the *individual client balance method* under this section.

7.16.13 | G | (1) The *client money requirement* should represent the total amount of *client money* a *firm* is required to have segregated in *client bank accounts* under the *client money rules*.

(2) ■ CASS 7.16.11 R does not prevent a *firm* from adopting a *net negative add-back method* as part of a *non-standard method of internal client money reconciliation*.

(3) ■ CASS 7.16.12 R does not prevent a CASS loan-based crowdfunding firm from adopting the *individual client balance method* as part of a *non-standard method of internal client money reconciliation*.

(4) If a *firm* uses the *individual client balance method* in respect of some of its business lines and the *net negative add-back method* in respect of others it will be conducting a *non-standard method of internal client money reconciliation*.

7.16.14 | G | (1) The *individual client balance method* (■ CASS 7.16.16 R) may be applied by any *firm* except a *CASS 7 loan-based crowdfunding firm*. This method requires a *firm* to calculate the total amount of *client money* it should be segregating in *client bank accounts* by reference to how much the *firm* should be holding in total (ie, across all its *client bank accounts* and businesses) for each of its individual *clients* for:

(a) *non-margined transactions* (■ CASS 7.16.16 R (1) and ■ CASS 7.16.21 R);

(b) *margined transactions* (■ CASS 7.16.16 R (2) and ■ CASS 7.16.32 R); and

(c) certain other matters (■ CASS 7.16.16 R (3) and ■ CASS 7.16.25 R).

(2) (a) ■ CASS 7.16.22 E is an *evidential provision* which sets out a method *firms* should use for calculating how much they should be holding in total for each individual *client* for *non-margined transactions*.

(b) The calculation in ■ CASS 7.16.22 E permits a *firm* to calculate either one *individual client balance* across all its products and business lines for each *client* or a number of *individual client balances* for each *client* equal to the number of products or business lines operated by the *firm* in connection with that *client* (see ■ CASS 7.16.22 E (1)).

(c) The calculation referred to in (2)(b) may also be applied by different types of *firms* and, as a result, each *firm* will need to apply the calculation in way which recognises the business model under which that *firm* operates.

7.16.15 | G | The *net negative add-back method* (■ CASS 7.16.17 R) is available to *CASS 7 asset management firms* and *CASS 7 loan-based crowdfunding firms*, many of whom may operate internal ledger systems on a bank account by bank account, not *client*-by-*client*, basis. This method allows a *firm* to calculate the

total amount of *client money* it is required to have segregated in *client bank accounts* by reference to:

    (1)   the balances in each *client bank account* (see ■ CASS 7.16.17 R (1) and ■ CASS 7.16.18 G (2));

    (2)   whether any individual *client's* net position in a specific *client bank account* is negative (see ■ CASS 7.16.17 R (2) and ■ CASS 7.16.18 G (2)); and

    (3)   certain other matters (see ■ CASS 7.16.17 R (2) and ■ CASS 7.16.25 R).

Client money requirement calculation: individual client balance method

7.16.16   R   Subject to ■ CASS 7.16.25 R and ■ CASS 7.16.37 R, under this method the *client money requirement* must be calculated by taking the sum of, for all *clients* and across all products and accounts:

    (1)   the *individual client balances* calculated under ■ CASS 7.16.21 R, excluding:

       (a) *individual client balances* which are negative (ie, debtors); and

       (b) *clients' equity balances*;

    (2)   the total *margined transaction requirement* (calculated under ■ CASS 7.16.32 R); and

    (3)   any amounts that have been segregated as *client money* according to the *firm's* records under any of the following: ■ CASS 7.13.51 R (1) (*prudent segregation record*), ■ CASS 7.13.66 R (*alternative approach mandatory prudent segregation record*) and/or ■ CASS 7.13.74 R (*clearing arrangement mandatory prudent segregation record*).

Client money requirement calculation: net negative add-back method

7.16.17   R   Subject to ■ CASS 7.16.25 R, under this method the *client money requirement* must be calculated by taking the sum of, for each *client bank account*:

    (1)   the amount which the *firm's* internal records show as held on that account; and

    (2)   an amount that offsets each negative net amount which the *firm's* internal records show attributed to that account for an individual *client*.

7.16.18   G   (1)   A *firm* which utilises the *net negative add-back method* is reminded that it must do so in a way which allows it to maintain its records so that, at any time, the *firm* is able to promptly determine the total amount of *client money* it should be holding for each *client* (see ■ CASS 7.15.5 R (1)).

    (2)   For the purposes of ■ CASS 7.16.17 R, a *firm* should be able to readily use the figures previously recorded in its internal records and ledgers (for example, its cashbook or other internal accounting records) as at

the close of business on the previous *business day* without
undertaking any additional steps to determine the balances in the
firm's client bank accounts.

7.16.19 **G** (1) A *firm* which utilises the *net negative add-back method* may calculate
its *client money requirement* and *client money resource* on a bank
account by bank account basis;

(2) For the purposes of ■ CASS 7.16.17 R, a *firm* should take into account
any amounts that have been segregated as *client money* according to
the *firm's* records under either or both ■ CASS 7.13.50 R (*prudent
segregation record*) and ■ CASS 7.13.66 R (*alternative approach
mandatory prudent segregation record*).

Non-margined transactions (eg, securities): individual client balance

7.16.20 **G** The sum of positive *individual client balances* for each *client* should
represent the total amount of all *money* the *firm* holds, has received or is
obligated to have received or be holding as *client money* in a *client bank
account* for that *client* for *non-margined transactions*.

7.16.21 **R** A *firm* must calculate a *client's individual client balances* in a way which
captures the total amount of all *money* the *firm* should be holding as *client
money* in a *client bank account* for that *client* for *non-margined transactions*
under the *client money rules*.

7.16.22 **E** (1) A *firm* may calculate either:

(a) one *individual client balance* for each *client*, based on the total
of the *firm's* holdings for that *client*; or

(b) a number of *individual client balances* for each *client*, equal to
the number of products or business lines the *firm* operates for
that *client* and each balance based on the total of the *firm's*
holdings for that *client* in respect of the particular product or
business line.

(2) Each *individual client balance* for a *client* should be calculated in
accordance with this table:

Individual client balance calculation	
Free *money* (sums held for a *client* free of sale or purchase (eg, see (3)(a)) and	A
sale proceeds due to the *client*:	
(a) for principal deals when the *client* has delivered the *designated investments*; and	B
(b) for agency *deals*, when:	
(i) the sale proceeds have been received by the *firm* and the *client* has delivered the *designated investments*; or	C1
(ii) the *firm* holds the *designated investments* for the *client*; and	C2
the cost of purchases:	

(c) for principal deals, paid for by the *client* when the *firm* has not delivered the *designated investments* to the client; and	D
(d) for agency *deals*, paid for by the *client* when:	
(i) the *firm* has not remitted the *money* to, or to the order of, the counterparty; or	E1
(ii) the *designated investments* have been received by the firm but have not been delivered to the *client*;	E2
Less	
money owed by the *client* for unpaid purchases by, or for, the *client* if delivery of those *designated investments* has been made to the *client*; and	F
proceeds remitted to the *client* for sales transactions by, or for, the *client* if the *client* has not delivered the *designated investments*.	G
Individual client balance 'X' = (A+B+C1+C2+D+E1+E2)-F-G	X

(3) When calculating an *individual client balance* for each *client*, a *firm* should also:

  (a) ensure it includes:

    (i) *client money* consisting of dividends received and interest earned and allocated (see ■ CASS 7.11.32 R);

    (ii) *client money* consisting of dividends (actual or payments in lieu), stock lending fees and other payments received and allocated (see ■ CASS 6.1.2 G);

    (iii) *money* the *firm* appropriates and segregates as *client money* to cover an unresolved *shortfall* in *safe custody assets* it identifies in its internal records which is attributable to an individual *client* (see ■ CASS 6.6.54R (2)); and

    (iv) *money* the *firm* segregates as *client money* instead of an individual *client's safe custody asset* until such time as the relevant delivery versus payment transaction settles under ■ CASS 6.1.12R (2); and

  (b) deduct any amounts due and payable by the *client* to the *firm* (see ■ CASS 7.11.25 R).

(4) Compliance with (1), (2) and (3) may be relied on as tending to establish compliance with ■ CASS 7.16.21 R.

7.16.23 R A *firm* must calculate an *individual client balance* using the contract value of any *client* purchases or sales, being the value to which the *client* would be contractual entitled to receive or contractually obligated to pay.

7.16.24 G If a *firm* calculates each *individual client balance* on a product-by-product or business line-by-business line basis under ■ CASS 7.16.22 E (1)(b), the result should be that the *firm* does not net *client* positions across all products and accounts.

7

Other requirements for calculating the client money requirement

7.16.25 **R** When calculating the *client money requirement* under either of the methods in ■ CASS 7.16.10 R, a *firm* must:

(1) include any unallocated *client money* (see ■ CASS 7.13.36 R) and unidentified receipts of *money* it considers prudent to segregate as *client money* (see ■ CASS 7.13.37 R);

(2) include any money the *firm* appropriates and holds as *client money* to cover an unresolved *shortfall* in *safe custody assets* identified in its internal records which is not attributable, or cannot be attributed to, an individual *client* (see ■ CASS 6.6.49 R, ■ CASS 6.6.50 R and ■ CASS 6.6.54 R);

(3) take into account any *client money* received as cash, cheques or payment orders but not yet deposited into a *client bank account* under ■ CASS 7.13.32 R (see also ■ CASS 7.15.9 R);

(4) if it has drawn any cheques or other payable orders, to discharge its fiduciary duty to its *clients* and continue to treat the sum concerned as forming part of its *client money requirement* until the cheque or order is presented and paid by the bank (see ■ CASS 7.11.40 R); and

(5) ensure it has taken into account all *client money* the *firm* should be holding in connection with *clients' non-margined transactions*.

7.16.26 **G** (1) Under ■ CASS 7.16.25 R (3), where a *firm* holds *client money* received as cash, cheques or payment orders but not yet deposited in a *client bank account* under ■ CASS 7.13.32 R, it may:

(a) include these balances when calculating its *client money requirement* (eg, where the *firm* records all receipts from clients, whether or not yet deposited with a bank, in its cashbook); or

(b) exclude these balances when calculating its *client money requirement* (eg, where the *firm* only records client receipts to its cashbook once deposited with a bank).

(2) In line with (1)(a), the *firm* will need to ensure that, before finalising the calculation of its *client money requirement* within this section, it deducts these balances, to ensure that they do not give rise to a discrepancy between the *firm's client money requirement* and *client money resource* (see ■ CASS 7.15.29 R).

(3) In line with (1)(b), although the balances concerned do not form part of the *firm's client money requirement*, the *firm* must continue to account for all receipts of *client money* as cash, cheques or payment orders but not yet deposited in a *client bank account* in its records and accounts (see ■ CASS 7.13.32 R and ■ CASS 7.15.9 R).

7.16.27 **G** (1) In accordance with ■ CASS 7.16.25 R (5), where a *firm* has allowed another *person* to hold *client money* in connection with a *client's non-margined transaction* (eg, in a *client transaction account* under ■ CASS 7.14 (Client money held by a third party)), the *firm* should include these balances when calculating its *client money requirement*.

(2) If a *firm* is utilising the *individual client balance method* (■ CASS 7.16.16 R) to calculate its *client money requirement*, ■ CASS 7.16.21 R requires the *firm* to include the sums its holds for each *client* that are placed with another *person* in connection with a *client's non-margined transaction* when calculating a *client's individual client balance* (eg, see ■ CASS 7.16.22 E and items C1 and E2).

(3) Under (1) and (2), the *firm* will need to ensure that, before finalising the calculation of its *client money requirement* within this section, it deducts positive balances held for *clients* adding back negative balances attributable to *clients' non-margined transactions* in *client transaction accounts*, to ensure that they do not give rise to a discrepancy between the *firm's client money requirement* and *client money resource* (see ■ CASS 7.15.29 R).

(4) Under (1), (2) and (3), in determining the balances of *client money* a *firm* has allowed another person to hold in connection with a *client's non-margined transaction* or the balances held for *clients' non-margined transactions* in *client transaction accounts*, a *firm* should use the values contained in its internal records and ledgers (see ■ CASS 7.15.13 R).

Margined transactions (eg, derivatives): equity balances

7.16.28 [R] Subject to ■ CASS 7.16.30 R, a *client's equity balance* is the amount which the *firm* would be liable to pay to the *client* (or the *client* to the *firm*) under the *client money rules* for *margined transactions* if each of the open positions were liquidated at the closing or settlement prices published by the relevant exchange or other appropriate pricing source and the account with the *firm* were closed. This notional balance should include any unrealised losses or profits associated with that *client's* open positions, and any margin the *firm* has received from the *client* in connection with those positions.

7.16.29 [R] Subject to ■ CASS 7.16.30 R, a *firm's equity balance* is the amount which the *firm* would be liable to pay to the exchange, *clearing house*, *intermediate broker* or *OTC* counterparty (or vice-versa) for the *firm's margined transactions* if each of the open positions of those of the *firm's clients* that are entitled to protection under the *client money rules* were liquidated at the closing or settlement prices published by the relevant exchange or other appropriate pricing source and the *firm's client transaction accounts* with that exchange, *clearing house*, *intermediate broker* or *OTC* counterparty were closed. This notional balance should include any unrealised losses or profits associated with the open positions the *firm* holds for *clients* and any margin the *firm* holds for *clients* in the relevant *client transaction accounts*.

7.16.30 [R] The terms '*client's equity balance*' and '*firm's equity balance*' refer to cash values and do not include non-cash *collateral* or other *designated investments* (including *approved collateral*) the *firm* holds for a *margined transaction*.

Margined transactions (eg, derivatives): margined transaction requirement

7.16.31 [G] The *margined transaction requirement* should represent the total amount of *client money* a *firm* is required under the *client money rules* to segregate in

client bank accounts for *margined transactions*. The calculation in
■ CASS 7.16.33 R is designed to ensure that an amount of *client money* is held
in *client bank accounts* which equals at least the difference between the
equity the *firm* holds at exchanges, *clearing houses*, *intermediate brokers*
and *OTC* counterparties for *margined transactions* for *clients* entitled to
protection under the *client money rules*, and the amount due to *clients*
under the *client money rules* for those same *margined transactions*. With this
calculation, a *firm's margined transaction requirement* should represent, if
positions were unwound, the *firm's* gross liabilities to *clients* entitled to
protection under the *client money rules* for *margined transactions*.

7.16.32　R　The total *margined transaction requirement* is:

(1) the sum of each of the *client's equity balances* which are positive; less

(2) the proportion of any individual negative *client equity balance* which
is secured by *client approved collateral*; and

(3) the net aggregate of the *firm's equity balance* (negative balances
being deducted from positive balances) on *client transaction accounts*
for *customers* with exchanges, *clearing houses*, *intermediate brokers*
and *OTC* counterparties.

7.16.33　R　(1) To meet the total *margin transaction requirement*, a *firm* may
appropriate and use its own *approved collateral*, provided it meets
the requirements in (2).

(2) The *firm* must hold the *approved collateral* in a way which ensures
that, in accordance with ■ CASS 7A.2.3A R, the *approved collateral* will
be liquidated on the occurrence of a *primary pooling event* and the
proceeds paid into a *client bank account*, and in so doing:

(a) ensure the *approved collateral* is clearly identifiable as separate
from the *firm's* own property and is recorded by the *firm* in its
records as being held for its *clients*;

(b) keep a record of the actions the *firm* has taken under this *rule*
which includes a description of the terms on which the *firm* holds
the *approved collateral*, identifies that the *approved collateral* is
held for the benefit of its *clients* and specifies the *approved
collateral* that the *firm* has appropriated for the purposes of this
rule; and

(c) update the record made under (b) whenever the *firm* ceases to
appropriate and use *approved collateral* under this *rule*.

7.16.34　G　Where ■ CASS 7.16.33 R applies, the *firm* will be reducing the requirement
arising from ■ CASS 7.16.16 R (2) and, as such, simultaneously reducing its
overall *client money requirement* (ie, the amount of money the *firm* is
required to segregate in *client bank accounts*).

7.16.35　R　If a *firm's* total *margined transaction requirement* is negative, the *firm* must
treat it as zero for the purposes of calculating its *client money requirement*.

LME bond arrangements

7.16.36 | R | A *firm* with a *Part 30 exemption order* which also operates an *LME bond arrangement* for the benefit of US-resident investors must exclude the *client equity balances* for transactions undertaken on the *LME* on behalf of those US-resident investors from the calculation of the *margined transaction requirement*, to the extent those transactions are provided for by an *LME bond arrangement* (see ■ CASS 12.2.3 G).

Reduced client money requirement option

7.16.37 | R | Where appropriate, a *firm* may:

(1) when, in respect of a *client*, there is a positive *individual client balance* and a negative *client equity balance*, offset the credit against the debit and, therefore, have a reduced *individual client balance* in ■ CASS 7.16.21 R for that *client*; and

(2) when, in respect of a *client*, there is a negative *individual client balance* and a positive *client equity balance*, offset the credit against the debit and, therefore, have a reduced *client equity balance* (■ CASS 7.16.28 R) for that *client*.

7.16.38 | G | The effect of ■ CASS 7.16.37 R is to allow a *firm* to offset, on a *client*-by-*client* basis, a negative amount with a positive amount arising out of the calculations in ■ CASS 7.16.21 R and ■ CASS 7.16.28 R and, therefore, reduce its overall *client money requirement*.

7.17   Statutory trust

7.17.1   [G] Section 137B(1) of the *Act* (Miscellaneous ancillary matters) provides that rules may make provision which result in *client money* being held by a *firm* on trust (England and Wales and Northern Ireland) or as agent (Scotland only). This section creates a fiduciary relationship between the *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 *firm*, costs relating to the distribution of *client money* may have to be borne by the trust.

Requirement

7.17.2   [R] Subject to ■ CASS 7.17.3 R in respect of a *trustee firm*, a *firm* receives and holds *client money* as trustee on the following terms:

(1) for the purposes of, and on the terms of, the *client money rules* and the *client money distribution and transfer rules*;

(2) (a) where a *firm* maintains only a *general pool* of *client money*, subject to (4), for the *clients* (other than *clients* which are *insurance undertakings* when acting as such with respect to *client money* received in the course of *insurance distribution activity* and that was opted in to this chapter) for whom that *money* is held, according to their respective interests in it;

(b) where a *firm* has established one or more pools of *client money*, subject to (4):

(i) the *general pool* is held for all the *clients* of the *firm* for whom the *firm* receives or holds *client money* (other than *clients* which are *insurance undertakings* when acting in regard to *client money* received during *insurance distribution activity* and that was opted in to this chapter) according to their respective interests; and

(ii) each *sub-pool* is for the *clients* of the *firm* who are identified as beneficiaries of the *sub-pool* in question, in accordance with ■ CASS 7.19.6 R (2), according to their respective interests in it;

(3) after all valid claims in (2) have been met, for *clients* which are *insurance undertakings* with respect of *client money* received in the course of *insurance distribution activity* according to their respective interests in it;

(4) for the payment of the costs properly attributable to the distribution of the *client money* in (2) if such distribution takes place following the *failure* of the *firm*; and

(5) after all valid claims and costs under (2) to (4) have been met, for the *firm* itself.

7.17.3 |R| A *trustee firm* which is subject to the *client money rules* by virtue of ■ CASS 7.10.1 R (2) receives and holds *client money* as trustee on the terms in ■ CASS 7.17.2 R, subject to its obligations to hold *client money* as trustee under the relevant instrument of trust.

7.17.4 |G| If a *trustee firm* holds *client money*, the *firm* should follow the provisions in ■ CASS 7.10.33 R to ■ CASS 7.10.40 G.

7.17.5 |G| The statutory trust under ■ CASS 7.17.2 R does not permit a *firm*, in its capacity as trustee, to use *client money* to advance credit to the *firm's clients*, itself, or any other *person*. For example, if a *firm* wishes to undertake a transaction for a *client* in advance of receiving *client money* from that *client* to fund that transaction, it should not advance credit to that *client* or itself using other *clients' client money* (ie, it should not 'pre-fund' the transaction using other *clients' client money*).

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7.18   Acknowledgment letters

Purpose

7.18.1 |G| The main purposes of an *acknowledgement letter* are:

(1) to put the bank, exchange, *clearing house*, *intermediate broker*, OTC counterparty or other *person* (as the case may be) on notice of a *firm's clients'* interests in *client money* that has been deposited with, or has been allowed to be held by, such *person*;

(2) to ensure that the *client bank account* or *client transaction account* has been opened in the correct form (eg, whether the *client bank account* is being correctly opened as a *general client bank account*, a *designated client bank account* or a *designated client fund account*), and is distinguished from any account containing *money* that belongs to the *firm*; and

(3) to ensure that the bank, exchange, *clearing house*, *intermediate broker*, OTC counterparty or other *person* (as the case may be) understands and agrees that it will not have any recourse or right against *money* standing to the credit of the *client bank account* or *client transaction account*, in respect of any sum owed to such *person*, or to any other third *person*, on any other account.

Client bank account acknowledgment letters

7.18.2 |R| (1) For each *client bank account*, a *firm* must, in accordance with ■ CASS 7.18.6 R, complete and sign a *client bank account acknowledgement letter* clearly identifying the *client bank account*, and send it to the bank with whom the *client bank account* is, or will be, opened, requesting the bank to acknowledge and agree to the terms of the letter by countersigning it and returning it to the *firm*.

(2) Subject to ■ CASS 7.18.14 R and ■ CASS 7.18.15 R, a *firm* must not hold or receive any *client money* in or into a *client bank account* unless it has received a duly countersigned *client bank account acknowledgement letter* from the relevant bank that has not been inappropriately redrafted (see ■ CASS 7.18.8 R) and clearly identifies the *client bank account*.

Client transaction account acknowledgement letters

7.18.3 | R | (1) This *rule* does not apply to a *firm* to which ■ CASS 7.18.4 R (1) applies.

(2) For each *client transaction account*, a *firm* must, in accordance with ■ CASS 7.18.6 R, complete and sign a *client transaction account acknowledgement letter* clearly identifying the *client transaction account*. That letter must be sent to the *person* with whom the *client transaction account* is, or will be, opened, requesting such *person* to acknowledge and agree to the terms of the letter by countersigning it and returning it to the *firm*.

(3) Subject to ■ CASS 7.18.14 R and ■ CASS 7.18.15 R, a *firm* must not allow the relevant *person* to hold any *client money* in a *client transaction account* maintained by that *person* for the *firm*, unless the firm has received a duly countersigned *client transaction account acknowledgement letter* from that *person* that has not been inappropriately redrafted (see ■ CASS 7.18.8 R) and that clearly identifies the *client transaction account*.

Authorised central counterparty acknowledgment letters

7.18.4 | R | (1) A *firm* which places *client money* at an *authorised central counterparty* in connection with a *regulated clearing arrangement* must, in accordance with ■ CASS 7.18.6 R, complete and sign an *authorised central counterparty acknowledgement letter* clearly identifying the relevant *client transaction account*. That letter must be sent to the *authorised central counterparty* with whom the *client transaction account* is, or will be, opened, requesting such *authorised central counterparty* to acknowledge receipt of the letter by countersigning it and returning it to the *firm*.

(2) A *firm* which has complied with ■ CASS 7.18.4 R (1) may allow the *authorised central counterparty* to hold *client money* on the relevant *client transaction account*, whether or not the *authorised central counterparty* has countersigned and returned the *authorised central counterparty acknowledgement letter* it received from the *firm*.

Acknowledgement letters in general

7.18.5 | G | In drafting *acknowledgement letters* under ■ CASS 7.18.2 R, ■ CASS 7.18.3 R or ■ CASS 7.18.4 R, a *firm* is required to use the relevant template in ■ CASS 7 Annex 2 R, ■ CASS 7 Annex 3 R or ■ CASS 7 Annex 4 R, respectively.

7.18.6 | R | When completing an *acknowledgment letter* under ■ CASS 7.18.2 R (1), ■ CASS 7.18.3 R (1) or ■ CASS 7.18.4 R (1), a firm:

(1) must not amend any of the *acknowledgement letter fixed text*;

(2) subject to (3), must ensure the *acknowledgement letter variable text* is removed, included or amended as appropriate; and

(3) must not amend any of the *acknowledgement letter variable text* in a way that would alter or otherwise change the meaning of the *acknowledgement letter fixed text*.

7.18.7 [G] ■ CASS 7 Annex 5 G contains *guidance* on using the template *acknowledgment letters*, including when and how *firms* should amend the *acknowledgement letter variable text* that is in square brackets.

7.18.8 [R] (1) If, on countersigning and returning the *acknowledgement letter* to a *firm*, the relevant *person* has also:

(a) made amendments to any of the *acknowledgement letter fixed text*; or

(b) made amendments to any of the *acknowledgement letter variable text* in a way that would alter or otherwise change the meaning of the *acknowledgement letter fixed text*;

the *acknowledgement letter* will have been inappropriately redrafted for the purposes of ■ CASS 7.18.2 R (2) or ■ CASS 7.18.3 R (3) (as applicable).

(2) For the purposes of ■ CASS 7.18.2 R (2) or ■ CASS 7.18.3 R (3), amendments made to the *acknowledgement letter variable text* in the *acknowledgement letter* returned to a *firm* by the relevant *person*, will not have the result that the letter has been inappropriately redrafted if those amendments do not affect the meaning of the *acknowledgement letter fixed text*, have been specifically agreed with the *firm* and do not cause the *acknowledgement letter* to be inaccurate.

7.18.9 [R] A *firm* must use reasonable endeavours to ensure that any individual that has countersigned an *acknowledgement letter* that has been returned to the *firm* was authorised to countersign the letter on behalf of the relevant *person*.

7.18.10 [R] (1) A *firm* must retain each countersigned *client bank account acknowledgement letter* and *client transaction account acknowledgement letter* it receives, from the date of receipt until the expiry of five years from the date on which the last *client bank account* or *client transaction account* to which the *acknowledgement letter* relates is closed.

(2) A *firm* must retain a copy of each *authorised central counterparty acknowledgment letter* it sends to an *authorised central counterparty* under ■ CASS 7.18.4 R (1), from the date it was sent until the expiry of five years from the date the last *client transaction account* to which the *acknowledgement letter* relates is closed.

7.18.11 [R] A *firm* must also retain any other documentation or evidence it believes is necessary to demonstrate that it has complied with each of the applicable requirements in this section (such as any evidence it has obtained to ensure that the individual that has countersigned an *acknowledgment letter* returned to the firm was authorised to countersign the letter on behalf of the relevant *person*).

7.18.12　R　(1)　This rule applies to:

(a)　any countersigned *client bank account acknowledgement letter* or *client transaction account acknowledgement letter* received by a *firm* under ■ CASS 7.18.2 R (2) or ■ CASS 7.18.3 R (3) respectively; and

(b)　any *authorised central counterparty acknowledgement letter* sent by a *firm* under ■ CASS 7.18.4 R (1), whether or not it has been countersigned by the relevant *authorised central counterparty* and received by the *firm*.

(2)　A *firm* must, periodically (at least annually, and whenever it is aware that something referred to in an *acknowledgement letter* has changed) review each of its *acknowledgement letters* to ensure that they all remain accurate.

(3)　Whenever a firm finds an inaccuracy in an *acknowledgement letter*, it must promptly draw up a replacement *acknowledgement letter* under ■ CASS 7.18.2 R or ■ CASS 7.18.3 R or ■ CASS 7.18.4 R, as applicable, and, if it is an *acknowledgement letter* required to be sent under ■ CASS 7.18.2 R, ■ CASS 7.18.3 R, ensure that the new *acknowledgement letter* is duly countersigned and returned by the relevant *person*.

7.18.13　G　Under ■ CASS 7.18.12 R, a *firm* should draw up and send out a replacement *acknowledgement letter* whenever:

(1)　there has been a change in any of the parties' names or addresses as set out in the letter; or

(2)　the *firm* becomes aware of an error or misspelling in the drafting of the letter.

7.18.14　R　If a *firm's client bank account* or *client transaction account* is transferred to another *person*, the *firm* must promptly draw up a new *acknowledgement letter* under ■ CASS 7.18.2 R, ■ CASS 7.18.3 R or ■ CASS 7.18.4 R, as applicable, and, if it is an *acknowledgement letter* required to be sent under ■ CASS 7.18.2 R or ■ CASS 7.18.3 R, ensure that the new *acknowledgement letter* is duly countersigned and returned by the relevant *person* within 20 *business days* of the *firm* sending it to that *person*.

7.18.15　R　If a *firm* opens a *client bank account* after a *primary pooling event*, the *firm* must:

(1)　promptly draw up and send out a new *acknowledgement letter* under ■ CASS 7.18.2 R;

(2)　not hold or receive any *client money* in or into the *client bank account* unless it has sent the *acknowledgement letter* to the relevant *person*; and

(3)　if the *firm* has not received a duly countersigned acknowledgement letter that has not been inappropriately redrafted (see ■ CASS 7.18.8 R) within 20 *business days* of the *firm* sending the *acknowledgement letter*, withdraw all *money* standing to the credit of the account and

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deposit it in a *client bank account* with another bank as soon as possible.

7.19   Clearing member client money sub-pools

7.19.1   G   (1) Under ■ CASS 7.17.2R(2), a *firm* acts as *trustee* for all *client money* received or held by it for the benefit of the *clients* for whom that *client money* is held, according to their respective interests in it.

(2) A *firm* that is also a *clearing member* of an *authorised central counterparty* may wish to segregate *client money* specifically for the benefit of a group of *clients* who have chosen to clear positions through a *net margined omnibus client account* maintained by the *firm* with that *authorised central counterparty*, where that segregation might facilitate the *porting* of *client* positions recorded in that *net margined omnibus client account*. To segregate *client money* (that would otherwise be held in the *general pool*) for a specific group of *clients* clearing positions through a particular *net margined omnibus client account*, a *clearing member firm* may, in accordance with these rules, create a *sub-pool* of *client money*.

(3) Upon the occurrence of a *primary pooling event*, the *client money* for:

(a) the *general pool*, should be distributed in accordance with ■ CASS 7A to the *clients* for whom the *firm* receives or holds *client money* in that *general pool*; and

(b) a *sub-pool*, should either be:

(i) transferred to facilitate *porting*; or

(ii) distributed to the *clients* who are beneficiaries of that *sub-pool*, according to their respective interests under ■ CASS 7A.2.4R (2)(a).

(4) All *client money* is received or held by the *firm* as *trustee* for the *clients* of the *firm*. However, a *clearing member* of an *authorised central counterparty* who clears *client* positions through a *net margined omnibus client account* may organise its affairs (with the consent of the relevant *clients*) in such a way that those *clients* need not share in the *general pool* of *client money* following a *primary pooling event*, save to the extent that such *clients* otherwise have an interest in the *general pool*.

7.19.2   R   Where a *firm* creates a *sub-pool* for a particular *net margined omnibus client account*, it must not clear positions through that *omnibus client account* for *clients* who are not beneficiaries of that *sub-pool*.

Internal controls

7.19.3 **R** A *firm* wishing to establish a *sub-pool* must establish and maintain adequate *internal controls* necessary to comply with the *firm's* obligations under ■ CASS 7 for the *general pool* and each *sub-pool* that it may establish.

Records

7.19.4 **R** Where a *firm* establishes one or more *sub-pools*, ■ CASS 7.15 (Records, accounts and reconciliations) shall be read as applying separately to the *firm's general pool* and each *sub-pool*.

7.19.5 **G** A *firm* that establishes one or more *sub-pools* must establish and maintain adequate internal controls and records in accordance with ■ CASS 7.15 (Records, accounts and reconciliations) to conduct internal and external reconciliations for each *sub-pool* and the *general pool* individually.

7.19.6 **R** (1) The records maintained for a *sub-pool* under ■ CASS 7.19.4 R must identify all the *client* beneficiaries of that *sub-pool*.

(2) The beneficiaries of each *sub-pool* are those *clients*:

(a) from whom the *firm* has received a signed *sub-pool disclosure document* in accordance with ■ CASS 7.19.11 R;

(b) for whom the *firm* maintains, previously maintained or is in the process of establishing a *margined transaction(s)* in the relevant *net margined omnibus client account* at the *authorised central counterparty*; and

(c) to whom any *client equity balance* or other *client money* is required to be segregated for the *client* by the *firm* in respect of the *margined transactions* under (2)(b) from that *sub-pool*.

7.19.7 **R** (1) For each *sub-pool* that the *firm* establishes, it must maintain a record of:

(a) the name of the *sub-pool*;

(b) the particular *net margined omnibus client account* at an *authorised central counterparty* to which the *sub-pool* relates;

(c) each *client bank account* and each *client transaction account* (other than the *net margined omnibus client account*) maintained for the *sub-pool*, including the unique identifying reference or descriptor under ■ CASS 7.19.13 R (2); and

(d) the applicable *sub-pool disclosure document* for the *sub-pool*.

7.19.8 **R** The *firm* must maintain an up-to-date list of all the *sub-pools* it has created.

Sub-pool disclosure document

7.19.9 **R** (1) A *firm* wishing to establish a *sub-pool* must prepare a *sub-pool disclosure document* for each *sub-pool*.

(2) The *sub-pool disclosure document* for each *sub-pool* must:

(a) identify the *sub-pool* by name, as stated in its records under
■ CASS 7.19.7 R, the *net margined omnibus client account* and the
authorised central counterparty to which the *sub-pool disclosure
document* relates;

(b) contain a statement that the *client* consents to the *firm* receiving
and holding the *client's client money* in the *sub-pool*;

(c) contain a statement that, in the event of the *failure* of the *firm*,
the *firm* is directed by the *client* to use any *client money* held by
the *firm* in the *sub-pool* to facilitate the *porting* of the positions
recorded in that *net margined omnibus client account*; and

(d) a statement reminding the *client* that, in the event of the *failure*
of the *firm*, if *porting* is not effected or if *porting* is effected but
any money in the sub-pool is not used to facilitate *porting*, the
client beneficiaries of the *sub-pool* will be entitled to a
distribution of any *client money* held for that *sub-pool* in line
with ■ CASS 7A. However, the *client* beneficiaries will not have a
claim on any other *pool* of *client money*, except to the extent
that the *client* is a beneficiary of another *pool*.

7.19.10	G	In preparing a *sub-pool disclosure document* under ■ CASS 7.19.9 R (1), a *firm* may use the template in ■ CASS 7 Annex 6.

7.19.11   R

(1) Before receiving or holding *client money* for a *client* for a *sub-pool*, a
firm must:

(a) provide to the *client* a copy of the *sub-pool disclosure document*
applicable to that *sub-pool*; and

(b) obtain a signed copy of that *sub-pool disclosure document* from
the *client*.

(2) A *firm* must provide the beneficiary of a *sub-pool* with a copy of its
signed *sub-pool disclosure document* applicable to that *sub-pool*
upon the beneficiary's request.

Segregation and operation of sub-pools

7.19.12   R   Where a *firm* establishes one or more *sub-pools*, ■ CASS 7.13 (Segregation of
client money) is to be read as applying separately to the *firm's general pool*
and each *sub-pool*.

7.19.13   R

(1) A *firm* must not hold *client money* for a *sub-pool* in a *client bank
account* or a *client transaction account* used for holding *client money*
for any other *sub-pool* or the *general pool*.

(2) A *firm* that establishes a *sub-pool* must ensure that the name of each
client bank account and each *client transaction account* (other than
the *net margined omnibus client account*) maintained for that *sub-
pool* includes a unique identifying reference or descriptor that
enables the account to be identified with that *sub-pool*.

(3) Where a *client* of the *firm* is a beneficiary of the *general pool* and
wishes to become a beneficiary of a *sub-pool*, the *client* in question
shall become a beneficiary of the relevant *sub-pool* when :

(a) the *firm* has obtained the signed *sub-pool disclosure document* from that *client* in accordance with ■ CASS 7.19.11 R (1); and

(b) the *firm* has either:

(i) transferred the relevant amount of *client money* for that *client* from a *client bank account* maintained for the *general pool* to a *client bank account* maintained for the relevant *sub-pool*; or

(ii) if the *firm* is not making a transfer of *client money* from the *general pool*, when it has received that *client's money* in a *client bank account* maintained for the relevant *sub-pool*.

(4) Where a *client* of the *firm* is a beneficiary of the *general pool* and wishes to become a beneficiary of a *sub-pool*, the *firm* must ensure that it does not transfer *client money* from a *client bank account* maintained for the *general pool* to a *client bank account* maintained for a *sub-pool* in accordance with ■ CASS 7.19.13 R (3)(b)(i), unless the amount of *client money* held for the *general pool* is sufficient, immediately after that transfer, to satisfy the *firm's client money* obligations to the remaining beneficiaries of the *general pool*.

(5) A *client* of the *firm* who is a beneficiary of a *sub-pool* ceases to be a beneficiary of that *sub-pool* when:

(a) the *firm* has settled the amount owing to that *client* for all of the *margined transactions* cleared through the related *net margined omnibus client account* and no longer holds any *client money* for that *client* in that *sub-pool*, and so ■ CASS 7.19.6 R (2)(b) and ■ CASS 7.19.6 R (2)(c) no longer apply for that *client*; or

(b) the *firm* has complied with (i) or (ii), and in either case (iii):

(i) the *firm* has received a written instruction from the *client* stating that the *client* no longer wishes to have its positions cleared through the *net margined omnibus client account* or its *client money* held in that *sub-pool*, or the *firm* has notified the *client* under ■ CASS 7.19.18 R that it is making a material change to a *sub-pool*; or

(ii) the *firm* has closed or moved that *client's* positions to an account other than the *net margined omnibus client account* referable to that *sub-pool*; and

(iii) the *firm* has either transferred the relevant amount of *client money* for that *client* from a *client bank account* maintained for the relevant *sub-pool* to a *client bank account* maintained by the *firm* for the *general pool* (or, if applicable, another *sub-pool*), or transferred the amount owing to that *client* for all of the *margined transactions* cleared through the related *net margined omnibus client account* and no longer holds any *client money* for that *client* in that *sub-pool*.

(6) In relation to the transfer of *client money* under ■ CASS 7.19.13 R (5)(b)(iii), a *firm* must ensure that it does not transfer *client money* from a *client bank account* maintained for a *sub-pool*, unless the amount of *client money* held for the *sub-pool* is sufficient, immediately after that transfer, to satisfy the *firm's client money* obligations to the remaining beneficiaries of that *sub-pool*.

7.19.14 |R| Save to the extent permitted under ■ CASS 7.13.70 G a *firm* that receives *client money* to be credited in part to the *general pool* or one *sub-pool* and in part to another *sub-pool* must:

(1) take the necessary steps to ensure that the full sum is paid directly into a *client bank account* maintained for the *general pool*; and

(2) promptly, and in any event no later than one *business day* after receipt, pay the *money* that is not *client money* for the *general pool* out of that *client bank account* and into a *client bank account* maintained for the appropriate *sub-pool*.

7.19.15 |G| (1) If a *primary pooling event* occurs before *client money* is transferred from a *client bank account* maintained for the *general pool* to a *client bank account* maintained for the appropriate *sub-pool* in accordance with ■ CASS 7.19.14 R (2), the amount in question will not form part of that *sub-pool*, including for the purposes of ■ CASS 7A.2.4R (1).

(2) If a *primary pooling event* occurs before *client money* is transferred from a *client bank account* maintained for a *sub-pool* to a *client bank account* maintained for the *general pool* or another *sub-pool* in accordance with ■ CASS 7.19.13 R (5), the amount in question will not form part of the *general pool* or that other *sub-pool*, including for the purposes of ■ CASS 7A.2.4R (1), but will remain part of the original *sub-pool*.

7.19.16 |R| A *client* for whom a *firm* receives or holds *client money* for a *sub-pool* has no claim to or interest in *client money* received or held for the *general pool* or any other *sub-pool* unless:

(1) that client is a beneficiary of that other *sub-pool*; or

(2) the *firm* receives or holds *client money* for that *client* for other business which does not relate to any *sub-pool* (and thus the *client* is a beneficiary of the *firm*'s *general pool*).

7.19.17 |R| A *client* for whom a *firm* receives or holds *client money* in more than one *pool* as described in ■ CASS 7.19.16 R (1) and/or ■ CASS 7.19.16 R (2) has an interest in a distribution from each such *pool*, and each interest is separate and distinct.

Material changes to sub-pools

7.19.18 |R| Before making a material change to a *sub-pool*, a *firm* must:

(1) notify the then current beneficiaries of that *sub-pool* in writing, not less than two months before the date on which the *firm* intends the change to take effect; and

(2) include in the notification an explanation of the consequences for the beneficiaries of the proposed change and the options available to them, such as the option of a beneficiary of the affected *sub-pool* to cease to be a beneficiary of that *sub-pool* and to become a

beneficiary of the *firm's general pool* or, if applicable, another *sub-pool*.

7.19.19 ☐G A *firm* should keep in mind its obligations under ■ CASS 7.19.11 R (1)(b) (before receiving or holding *client money* for a *client* in a *sub-pool*, a *firm* must obtain a signed copy of the *sub-pool disclosure document* from the client) when making a material change to a *sub-pool*. A *firm* is also reminded of the conditions under ■ CASS 7.19.13 R (5)(b) (when a *client* of the *firm* who is a beneficiary of a *sub-pool* ceases to be a beneficiary of that *sub-pool*) if a material change proposed to a *sub-pool* results in a *client* ceasing to be a beneficiary of that *sub-pool*.

7.19.20 ☐G The *FCA* would normally consider the dissolution of a *sub-pool*, such that the *firm* no longer operates the *sub-pool* or no longer uses the relevant *net margined omnibus client account* or transfers the business to another *authorised central counterparty*, to be examples of material changes to a *sub-pool*.

7.19.21 ☐R Before materially changing a *sub-pool*, a *firm* must provide a copy of the notice provided to clients under ■ CASS 7.19.18 R R to the *FCA* not less than two months before the date on which the *firm* intends the change to take place.

Notifications

7.19.22 ☐R A *firm* that wishes to establish a *sub-pool* of *client money* must notify the *FCA* in writing not less than two months before the date on which the *firm* intends to receive or hold *client money* for that *sub-pool*.

7.19.23 ☐R Upon request, a *firm* must deliver to the *FCA* a copy of the *sub-pool disclosure document* for any *sub-pool* established by the *firm*.

7.19.24 ☐R A *firm* must inform the *FCA* in writing, without delay, if it has not complied, or is unable to comply with the requirements in ■ CASS 7.19.11 R or the requirements in ■ CASS 7.19.18 R.

Record-keeping

7.19.25 ☐R The records maintained under this section, including the *sub-pool disclosure documents*, are a record of the *firm* that must be kept in a *durable medium* for at least five years following the date on which *client money* was last held by the *firm* for a *sub-pool* to which those records or the *sub-pool disclosure document* applied.

Client bank account acknowledgment letter template

[*letterhead of firm subject to* ■ CASS 7.18.2 R , *including full name and address of firm*]

[*name and address of bank*]

[*date*]

Client Money Acknowledgment Letter (pursuant to the rules of the Financial Conduct Authority)

We refer to the following [current/deposit account[s]] [and/or] [money market deposit[s]] which [*name of CASS firm*], regulated by the Financial Conduct Authority (Firm Reference Number [*FRN*]), ("us", "we" or "our") [has opened or will open] [and/or] [has deposited or will deposit] with [*name of bank*] ("you" or "your"):

[*insert the account title[s], the account unique identifier[s] (for example, as relevant, sort code and account number, deposit number or reference code) and (if applicable) any abbreviated name of the account[s] as reflected in the bank's systems*]

([collectively,] the "Client Bank Account[s]").

In relation to [each of] the Client Bank Account[s] identified above you acknowledge that we have notified you that:

> (a) we are under an obligation to keep money we hold belonging to our clients separate from our own money;
>
> (b) we have opened, or will open, the Client Bank Account for the purpose of depositing money with you on behalf of our clients; and
>
> (c) we hold all money standing to the credit of the Client Bank Account in our capacity as trustee under the laws applicable to us.

In relation to [each of] the Client Bank Account[s] above you agree that:

> (d) you do not have any recourse or right against money in the Client Bank Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Bank Account with any other account and any right of set-off or counterclaim against money in the Client Bank Account;
>
> (e) you will title, or have titled, the Client Bank Account as stated above and that such title is different to the title of any other account containing money that belongs to us or to any third party; and
>
> (f) you are required to release on demand all money standing to the credit of the Client Bank Account upon proper notice and instruction from us or a liquidator, receiver, administrator, or trustee (or similar person) appointed for us in bankruptcy (or similar procedure), in any relevant jurisdiction, except for:
>
>> (1) any properly incurred charges or liabilities owed to you on, and arising from the operation of, the Client Bank Account; and

7

(2) until the fixed term expires, any amounts held for the time being under a fixed term deposit arrangement which cannot be terminated before the expiry of the fixed term,

provided that you have a contractual right to retain such money under (1) or (2) and that this right is notwithstanding paragraphs (a) to (c) above and without breach of your agreement to paragraph (d) above.

We acknowledge that:

(g) you are not responsible for ensuring compliance by us with our own obligations, including as trustee, in respect of the Client Bank Account[s].

You and we agree that:

(h) the terms of this letter shall remain binding upon the parties, their successors and assigns, and, for the avoidance of doubt, regardless of any change in name of any party;

(i) this letter supersedes and replaces any previous agreement between the parties in connection with the Client Bank Account[s], to the extent that such previous agreement is inconsistent with this letter;

(j) in the event of any conflict between this letter and any other agreement between the parties in connection with the Client Bank Account[s], this letter agreement shall prevail;

(k) no variation to the terms of this letter shall be effective unless it is in writing, signed by the parties and permitted under the rules of the Financial Conduct Authority;

(l) this letter shall be governed by the laws of [*insert appropriate jurisdiction*] [*firms may optionally use this space to insert additional wording to record an intention to exclude any rules of private international law that could lead to the application of the substantive law of another jurisdiction*]; and

(m) the courts of [*insert same jurisdiction as previous*] shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this letter or its subject matter or formation (including non-contractual disputes or claims).

Please sign and return the enclosed copy of this letter as soon as possible. We remind you that, pursuant to the rules of the Financial Conduct Authority, we are not allowed to use the Client Bank Account[s] to deposit any money belonging to our clients with you until you have acknowledged and agreed to the terms of this letter.

For and on behalf of [*name of CASS firm*]

x_____

Authorised Signatory

[Signed by [*name of third party administrator*] on behalf of [*CASS firm*]]

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

For and on behalf of [*name of bank*]

x_____

Authorised Signatory

Print Name:

Title:

Contact Information: [*insert signatory's phone number and email address*]

Date:

Client transaction account acknowledgment letter template

[*letterhead of firm subject to* ■ CASS 7.18.3 R *, including full name and address of firm*]

[*name and address of counterparty*]

[*date*]

Client Money Acknowledgment Letter (pursuant to the rules of the Financial Conduct Authority)

We refer to the following transaction account[s] which [*name of CASS firm*], regulated by the Financial Conduct Authority (Firm Reference Number [*FRN*]), ("us", "we" or "our") has opened or will open with [*name of counterparty*] ("you" or "your"):

[*insert the account title[s], the account unique identifier[s] (for example, as relevant, account number, reference code or pool ID) and (if applicable) any abbreviated name of the account[s] as reflected in the counterparty's systems*]

([collectively,] the "Client Transaction Account[s]").

In relation to [each of] the Client Transaction Account[s] identified above you acknowledge that we have notified you that:

    (a) we are under an obligation to keep money we hold belonging to our clients separate from our own money;

    (b) we have opened, or will open, the Client Transaction Account for the purpose of placing money with you on behalf of our clients in connection with carrying out one or more transactions with or through you; and

    (c) you are instructed to promptly credit to this Client Transaction Account any money you receive in respect of any transaction that we have notified to you as being carried out on behalf of our clients.

In relation to [each of] the Client Transaction Account[s] identified above you agree that:

    (d) all money standing to the credit of the Client Transaction Account is payable to us in our capacity as trustee under the laws applicable to us[, except where, in accordance with your default management procedures in respect of a default by us, you transfer money credited to the Client Transaction Account to anyone other than us in accordance with the "EMIR Indirect Clearing Default Management Obligations" (as defined at the time of such default in the Financial Conduct Authority's Handbook of Rules and Guidance)] [and/or] [the "MiFIR Indirect Clearing Default Management Obligations" (as defined at the time of such default in the Financial Conduct Authority's Handbook of Rules and Guidance)]];

    (e) you do not have any recourse or right against money credited to the Client Transaction Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Transaction Account with any other account and any right of set-off or counterclaim against money in the Client Transaction Account; and

(f) you will title, or have titled, the Client Transaction Account as stated above and that such title is different to the title of any other account containing money that is payable to us in a capacity other than as trustee or that is payable to any third party.

You and we agree that:

(g) the terms of this letter shall remain binding upon the parties, their successors and assigns, and, for the avoidance of doubt, regardless of any change in name of any party;

(h) this letter supersedes and replaces any previous agreement between the parties in connection with the Client Transaction Account[s], to the extent that such previous agreement is inconsistent with this letter;

(i) in the event of any conflict between this letter and any other agreement between the parties in connection with the Client Transaction Account[s], this letter agreement shall prevail;

(j) no variation to the terms of this letter shall be effective unless it is in writing, signed by the parties and permitted under the rules of the Financial Conduct Authority;

(k) this letter shall be governed by the laws of [*insert appropriate jurisdiction*] [*firms may optionally use this space to insert additional wording to record an intention to exclude any rules of private international law that could lead to the application of the substantive law of another jurisdiction*]; and

(l) the courts of [*insert same jurisdiction as previous*] shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this letter or its subject matter or formation (including non-contractual disputes or claims).

Please sign and return the enclosed copy of this letter as soon as possible. We remind you that, pursuant to the rules of the Financial Conduct Authority, we are not allowed to permit you to hold any money belonging to our clients on the Client Transaction Account[s] until you have acknowledged and agreed to the terms of this letter.

For and on behalf of [*name of CASS firm*]

x_____

Authorised Signatory

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

For and on behalf of [*name of counterparty*]

x_____

Authorised Signatory

Print Name:

Title:

Contact Information: [*insert signatory's phone number and email address*]

Date:

Authorised central counterparty acknowledgment letter template

[*letterhead of firm subject to* ■ CASS 7.18.4 R *, including full name and address of authorised central counterparty*]

[*name and address of counterparty*]

[*date*]

Client Money Acknowledgment Letter (pursuant to the rules of the Financial Conduct Authority)

We refer to the following transaction account[s] which [*name of CASS firm*], regulated by the Financial Conduct Authority (Firm Reference Number [*FRN*]), ("us", "we" or "our") has opened or will open with [*name of authorised Central counterparty*] ("you" or "your"):

[*insert the account title[s], the account unique identifier[s] (for example, as relevant, account number, reference code or pool ID) and (if applicable) any abbreviated name of the account[s] as reflected in the authorised central counterparty's systems*]

([collectively,] the "Client Transaction Account[s]").

In relation to [each of] the Client Transaction Account[s] identified above we are writing to put you on notice that:

    (a) we are under an obligation to keep money we hold belonging to our clients separate from our own money;

    (b) we have opened, or will open, the Client Transaction Account for the purpose of placing money with you on behalf of our clients in connection with carrying out one or more transactions with or through you;

    (c) you are instructed to promptly credit to this Client Transaction Account any money you receive in respect of any transaction that we have notified to you as being carried out on behalf of our clients;

    (d) all money standing to the credit of the Client Transaction Account is payable to us in our capacity as trustee under the laws applicable to us, except where, as a part of your default management process in respect of a default by us, you transfer money credited to the Client Transaction Account to anyone other than us in accordance with article 48 of Regulation (EU) No 648/2012 of 4 July 2012;

    (e) you do not have any recourse or right against money credited to the Client Transaction Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Transaction Account with any other account and any right of set-off or counterclaim against money in the Client Transaction Account; and

    (f) we understand the title of the Client Transaction Account is, or will be, as stated above and that such title is different to the title of any other account containing money that is payable to us in a capacity other than as trustee or is payable to any third party.

[Please confirm your receipt of this letter by signing and returning the enclosed copy of this letter as soon as possible.]

For and on behalf of [*name of CASS firm*]

x_____

Authorised Signatory

Print Name:

Title:

[RECEIPT CONFIRMED:

For and on behalf of [*name of counterparty*]

x_____

Authorised Signatory

Print Name:

Title:

Contact Information: [*insert signatory's phone number and email address*]

Date:]

Guidance notes for acknowledgement letters (CASS 7.18)

Introduction

1 This annex contains *guidance* on the use of the templates for *acknowledgement letters* in ■ CASS 7 Annex 2, ■ CASS 7 Annex 3 and ■ CASS 7 Annex 4.

2 Unless stated otherwise, a reference to 'counterparty' in this annex is:

(a) in the context of a *client bank account acknowledgement letter* (and ■ CASS 7 Annex 2), to the relevant *bank*;

(b) in the context of a *client transaction account acknowledgement letter* (and ■ CASS 7 Annex 3), to the relevant exchange, *clearing house*, *intermediate broker*, *OTC counterparty* or other *person* (as the case may be); and

(c) in the context of an *authorised central counterparty acknowledgement letter* (and ■ CASS 7 Annex 4), to the relevant *authorised central counterparty*.

General

3 Under ■ CASS 7.18.2 R (2) and ■ CASS 7.18.3 R (3), *firms* are required to have in place a duly signed and countersigned *acknowledgment letter* for a *client bank account* or *client transaction account* (respectively) before they are allowed to hold or receive *client money* in or into the *client bank account*, or allow the relevant *person* to hold any *client money* on the *client transaction account* (respectively).

4 However, a *firm* may place *client money* at an *authorised central counterparty* in connection with a *regulated clearing arrangement* if it has provided the relevant *authorised central counterparty* with a signed and completed *authorised central counterparty acknowledgement letter* (see ■ CASS 7.8.3 R).

5 For each *client bank account* or *client transaction account*, a *firm* is required to complete, sign and send to the counterparty an *acknowledgment letter* identifying that account and in the form set out in ■ CASS 7 Annex 2 (Client bank account acknowledgment letter template), ■ CASS 7 Annex 3 (Client transaction account acknowledgment letter template) or ■ CASS 7 Annex 4 (Authorised central counterparty acknowledgment letter), as appropriate.

6 When completing an *acknowledgment letter* using the appropriate template, a *firm* is reminded that it must not amend any of the text which is not in square brackets (*acknowledgment letter fixed text*). A *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 necessary wording, in either case as appropriate. The notes below give further guidance on this.

Clear identification of relevant accounts

7 A *firm* is reminded that for each *client bank account* or *client transaction account* it needs to have in place an *acknowledgement letter*. Accordingly, it is important that it is clear to which account or accounts each *acknowledgement letter* relates. As a result, the templates in ■ CASS 7 Annex 2, ■ CASS 7 Annex 3 and ■ CASS 7 Annex 4 require that the *acknowledgement letter* include the full title and at least one unique identifier, such as a sort code and account

number, deposit number, reference code or pool ID, for each *client bank account* or *client transaction account* to which the letter relates.

8 The title and unique identifiers included in an *acknowledgement letter* for a *client bank account* or *client transaction account* should be the same as those reflected in both the records of the *firm* and the relevant counterparty, as appropriate, for that account. Where a counterparty'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 accordance with the requirements of ■ CASS 7 (eg, 'designated' may be shortened to 'des', 'designated fund' may be shortened to 'des fnd', 'segregated' may be shortened to 'seg', 'account' may be shortened to 'acct', etc); and

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

9 A *firm* should ensure that all relevant account information is contained in the space provided in the body of the *acknowledgement letter*. Nothing should be appended to an *acknowledgement letter*.

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

Full account title	Unique identifier	Title reflected in [*name of bank*] systems
[*Investment Firm Client Bank Account*]	[*00-00-00 12345678*]	[*INV FIRM CLIENT A/C*]

11 Where an *acknowledgement letter* is intended to cover a range of *client bank account*s or *client transaction accounts*, some of which may not exist as at the date the *acknowledgement letter* is countersigned by the relevant *person* (or, in the case of an *authorised central counterparty acknowledgement letter*, the date it is sent by the *firm* to the relevant *authorised central counterparty*), a *firm* should set out in the space provided in the body of the *acknowledgement letter* that it is intended to apply to all present and future accounts which: (a) are titled in a specified way (eg, 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 (eg, all accounts numbered between XXXX1111 and ZZZZ9999). For example, in the space provided in the template letter in ■ CASS 7 Annex 2 which allows a *firm* to include the account title and a unique identifier for each relevant account, a *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 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].

Signature and countersignatures

12 A *firm* should ensure that each *acknowledgement letter* is signed and countersigned by all relevant parties and individuals (including where a *firm* or its counterparty may require more than one signatory).

13 An *acknowledgement letter* that is signed or countersigned electronically should not, for that reason alone, result in a breach of the rules in ■ CASS 7.19 . However, where electronic signatures are used, a *firm* should consider whether, under ■ CASS 7.13.8 R and 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 letter.

Completing an acknowledgment letter

14 A *firm* should use at least the same level of care and diligence when completing an *acknowledgement letter* as it would in managing its own commercial agreements.

15 A *firm* should ensure that each *acknowledgement letter* is legible (eg, 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 (eg, where the counterparty belongs to a group of companies).

16 A *firm* should also ensure each *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).

17 A *firm* should similarly ensure that no square brackets remain in the text of each *acknowledgement letter* (ie, 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 7 Annex 2, ■ CASS 7 Annex 3 and ■ CASS 7 Annex 4) and that each page of the *acknowledgement letter* is numbered.

18 A *firm* should complete an *acknowledgement letter* so that no part of the letter can be easily altered (eg, the letter should be signed in ink rather than pencil).

19 In respect of a *client bank account acknowledgement letter's* governing law and choice of competent jurisdiction (see paragraphs (l) and (m) of the template in ■ CASS 7 Annex 2R) or a *client transaction account acknowledgement letter's* governing law and choice of competent jurisdiction (see paragraphs (k) and (l) of the template in ■ CASS 7 Annex 3 R), the letter should reflect a *firm's* agreement with its counterparty that the laws of a particular jurisdiction will govern the *acknowledgement letter* and that the courts of that same jurisdiction will have non-exclusive jurisdiction to settle any disputes arising out of, or in connection with, the *acknowledgement letter*, its subject matter or formation.

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

(a) the law and the jurisdiction under which either the *firm* or the relevant counterparty are organised; and

(b) that specified in the underlying agreement/s (eg, banking, custody or clearing services agreement) with the relevant counterparty;

then the *firm* should consider whether it is at risk of breaching either ■ CASS 7.18.6 R (3) or, in the case of a *client bank account acknowledgement letter*, ■ CASS 7.13.8 R .

21 The *FCA* recognises that some *firms* and their counterparties may wish to clarify through additional words in the governing law provision (see paragraph (l) of the template in ■ CASS 7 Annex 2 and paragraph (k) of the template in ■ CASS 7 Annex 3) that they are agreeing that the substantive law of the governing jurisdiction shall apply and that their intention is that a court should not decide to apply the substantive provisions of some other law instead of the parties' chosen governing law (a 'renvoi'). Where this is the case *firms* are permitted to insert additional text that seeks to provide increased legal certainty in the space provided. There is no restriction as to what additional words may be used (eg, additional words such as "*without regard to the principles of choice of law*" may be appropriate in the circumstances), but a *firm* should at all times have regard to the need to comply with ■ CASS 7.18.6 R (3) . However, for the

7

majority of *firms* the *FCA* does not expect additional wording for the governing law provision to be necessary. This is likely to be the case where only a court that is subject to 'Rome I' (Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008) is likely to accept jurisdiction over a dispute arising out of or in connection with the relevant *acknowledgement letter.*

Authorised signatories

22 A *firm* is required, under ◾ CASS 7.18.9 R , to use reasonable endeavours to ensure that any individual that has countersigned an *acknowledgement letter* returned to the *firm* was authorised to countersign the letter on behalf of the relevant counterparty.

23 If an individual that has countersigned an *acknowledgement letter* does not provide the *firm* with sufficient evidence of his/her authority to do so then the *firm* is expected to make appropriate enquires to satisfy itself of that individual's authority.

24 Evidence of an individual's authority to countersign an *acknowledgement letter* may include a copy of the counterparty'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 *acknowledgement letter.*

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

Third party administrators

26 If a *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 Firm*]]" should be inserted to confirm that the *acknowledgement letter* was signed by the TPA on behalf of the *firm*.

27 In these circumstances, the *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 *firm's* behalf. A *firm* should also ensure that the *acknowledgement letter* continues to be drafted on letter-headed paper belonging to the *firm*.

Designated client bank accounts and designated client fund accounts

28 A *firm* must ensure that each of its *client bank accounts* follows the naming conventions prescribed in the *Glossary*. This includes ensuring that (i) all *client bank accounts* include the term 'client' in their title; and (ii) all *designated client bank accounts* or *designated client fund accounts* include, as appropriate, the terms 'designated' or 'designated fund' in their title, or in each case an appropriate abbreviation in circumstances where this is permitted by the *Glossary* definition.

29 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.

Indirect clearing arrangements

30 For use with *client transaction accounts* maintained with a *clearing member* who facilitates indirect clearing through a *regulated clearing arrangement*, the square-bracketed text in paragraph (d) of the template letter in ◾ CASS 7 Annex 3 should remain in the letter, and, depending on the instruments being indirectly cleared using those *client transaction accounts*, should include the reference to either or both the *EMIR indirect clearing default management obligations* and the *MiFIR indirect clearing default management obligations*.

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

Direct clearing arrangements

32 For use with *client transaction accounts* maintained with an *authorised central counterparty* in respect of a *regulated clearing arrangement*, a *firm* may identify whether each account is an *omnibus client account* or an individual client account in the space provided in the body of the template letter in ■ CASS 7 Annex 4. For example, if using the table mentioned in paragraph 10 above, a *firm* may include an additional column in which for each account it includes the reference "Individual Client Account" or "Omnibus Client Account", as appropriate.

33 All references to the term "Client Transaction Account[s]" in an *authorised central counterparty acknowledgement letter* should be made consistently in either the singular or plural, as appropriate.

Money market deposits

34 The *client bank account acknowledgement letter* in ■ CASS 7 Annex 2 may be used with money market deposits identified as being *client money*.

35 A *firm* should ensure that *client money* placed in a money market deposit is clearly identified as *client money* (see ■ CASS 7.13.15 G).

36 Before a *firm* places *client money* in a money market deposit, it must have a *client bank account acknowledgement letter* for that deposit. If the unique identifier which will be associated with a money market deposit consisting of *client money* is unable to be included in a *client bank account acknowledgement letter* before it is duly countersigned and returned to the *firm*, a *firm* should set out in the body of the letter: (a) the title and other account information for the *client bank account* from which the deposits will be placed with the bank; and (b) how the *firm* will notify the bank that a money market deposit placed with it consists of *client money* (eg, by the inclusion of the words 'Client Money Deposit'). For example, in the space provided in the template letter in ■ CASS 7 Annex 2 which allows a *firm* to include the account title and a unique identifier for each relevant account/deposit, a *firm* should include a statement to the following effect:

> **[[CASS Firm] money market deposits placed from [title of relevant [client bank account], [sort code], [account number]] and identified with the reference '[Client Money Deposit]' as being client money)]**

37 A *firm* which operates the alternative approach to *client money* segregation (see ■ CASS 7.13.62 R) might not make deposits of *client money* in a money market deposit from another *client bank account*. In these circumstances, the *firm* need only include in the body of the letter how the *firm* will notify the bank that a money market deposit placed with it consists of *client money*. For example, the relevant space in the template letter in ■ CASS 7 Annex 2 may set out that:

> **[[CASS firm] money market deposits identified with the reference '[Client Money Deposit]' as being client money]**

Sub-pool disclosure document

[*letterhead of firm, including full name and address of firm, firm reference number*]

[*addressee - client participating in specified sub-pool*]

[*date*]

Sub-pool disclosure document (under the rules of the Financial Conduct Authority)

1. The sub-pool to which this sub-pool disclosure document relates is designated in the firm's records as:

[*insert name of sub-pool in firm's records*]

(for the purposes of this document, the "sub-pool")

2. The net margined omnibus client account relating to the sub-pool is held at [*insert name of authorised CCP*] and is designated as:

[*insert the account title, the account unique identifier and (if applicable) any abbreviated name of the account as reflected in the authorised CCP's systems*]

(for the purposes of this document, the "omnibus client account").

3. The purpose of this letter is to:

(a) provide you with information relating to the sub-pool [operated or to be operated] by [*insert name of CASS firm*] in relation to the omnibus client account held by the firm at [*insert name of authorised CCP*];

(b) obtain your consent to holding your money in the sub-pool; and

(c) confirm your direction that upon the failure of [*insert name of CASS firm*], we are to use any client money held by the firm in the sub-pool to facilitate porting.

4. [*name of CASS firm*] will hold any client money that we receive from you in relation to the cleared transactions that we maintain for you in the omnibus client account in client bank accounts that we open in relation to the sub-pool, or we will allow the CCP to hold this client money in the omnibus client account.

5. In the event of the failure of the [*insert name of CASS firm*], you hereby direct the [*insert name of CASS firm*] to use any client money held by the [*insert name of CASS firm*] in the sub-pool to facilitate the porting of the positions recorded in the omnibus client account.

6. In the event of the failure of [*insert name of CASS firm*], if porting is not effected, or if porting is effected but any money in the sub-pool is not used to facilitate porting, you and the other beneficiaries of the sub-pool will be entitled to a distribution from any client money held in respect of this sub-pool, in accordance with the client money distribution rules in CASS 7A. Save to the extent that [*insert name of CASS firm*] holds any other client money for you in the context of any other business or sub-pool, you will not be entitled to a distribution of any other client money held by [*insert name of CASS firm*].

7. You hereby consent to the firm receiving and holding your money as client money as part of [*sub-pool specified above or specify name of sub-pool*]. Until you sign and return this letter the

firm will not hold money for you in the sub-pool and you will not be a beneficiary of the sub-pool.

8. This letter shall be governed by the laws of [*England and Wales/Scotland/Northern Ireland / insert appropriate jurisdiction*].

If you are in agreement with the foregoing terms, please sign and return the enclosed copy of this letter as soon as possible. You should retain a copy of this letter for your records.

[*insert name of CASS firm*]

x_____

Authorised Signatory

Print Name:

Title:

ACKNOWLEDGED AND AGREED:

[*insert name of client*]

x_____

Authorised Signatory

Print Name:

Title:

Contact Information: [*insert signatory's phone number and email address*]

Date: