Chapter 7

Client money rules
7.10 Application and purpose

7.10.1 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 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 (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 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 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 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 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 (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.
7.10.7A  Loan-based crowdfunding

(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  Loan-based crowdfunding (continued)

(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.
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7.10.7C 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 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 (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 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.

(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 4.1.8R(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

Professional client opt-out

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).
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

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.

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).

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.

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.

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.
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 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 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 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 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 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.
**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 R  

(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

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.

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.

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(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);
(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.
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.

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

(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.
Title transfer collateral arrangements

7.11.1 [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 [deleted]

7.11.3 [deleted]

(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 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 (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 [deleted]

7.11.6 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
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 The exclusion from the client money rules for delivery versus payment transactions under ■ CASS 7.11.14 R is an example of an exclusion from the client money rules which is permissible by virtue of recital 51 to MiFID.

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.

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.

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.

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.

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).

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  
(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*.

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).

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*.

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*.

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  
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  
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  
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  
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  
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  
■ CASS 7.11.41G to ■ CASS 7.11.47R do not apply to a firm following a primary pooling event.

7.11.40B  
■ 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  
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  
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).

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

(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.

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

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

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

■ CASS 7.11.48G to ■ CASS 7.11.58G do not apply to a *firm* following a *primary pooling event*.

■ 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*.

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*.

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*.

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.

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.

(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.

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.

(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;
(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

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 clients 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)).

7.11.56 G

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
(4) the firm makes and/or retains records of all balances released from client bank accounts in accordance 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

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 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 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 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 [R] CASS 7.13.3 R (1) to [R] 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 [R] 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 [R] CASS 7.13.8 R and [R] 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
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 7.13.3 R(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 C 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.

(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).
(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).

(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.

(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.

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).
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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 (see ■ CASS 7A.2.1 G (Failure of the authorised firm: primary pooling event)). 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]
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]

(1) A firm need not comply with CASS 7.13.20 R 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

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

(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 7.13.21 CR.

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

In relation to the requirement to take account of a firm’s “small balance” of client money at CASS 7.13.21 AR(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 7.13.21 AR(1);

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

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.

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]

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;
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(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 [deleted]

7.13.29A 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 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 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 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
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 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 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 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 (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.
(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 7.13.41 R, 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.
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.

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

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

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

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.

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.
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).

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.

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.

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).

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.

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.

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  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  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  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  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.

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.

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.

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
(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.3.1CR (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 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 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.
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.
(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.

(1) Where the circumstances described in CASS 7.13.72R (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 7.13.72R (1)(a) and until their transfer in accordance with CASS 7.13.72R (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 7.13.72R (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

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).
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.

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.

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.

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.

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 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 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 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.
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

(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.

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.

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

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.

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.
Section 7.15 : Records, accounts and reconciliations

7.15 Records, accounts and reconciliations

7.15.1 (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 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 held for any other client, and from its own money.

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

7.15.3 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 (1) The requirements in CASS 7.15.2 R to CASS 7.15.3 R 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 7.15.3 R 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 (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.
(3) Unless otherwise stated, a firm must ensure that any record made under 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 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 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 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 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 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 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 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 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 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 (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.

(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.

(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

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).

(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 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 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 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 ■ CASS 7.15.22R to ■ 7.15.26R do not apply to a firm following a primary pooling event.

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

7.15.22 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 When determining the frequency at which it will undertake external client money reconciliations, a firm must have regard to:
(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 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 In most circumstances, firms which undertake transactions on a daily basis should conduct an external client money reconciliation each business day.

7.15.26 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

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 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 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

An external client money reconciliation requires a firm to:

1. compare:

   - 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

   - 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.

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

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.

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.

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).

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.

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.

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.

(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

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

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.
7.16 The standard methods of internal client money reconciliation

7.16.1 (1) Firms are required to carry out an internal client money reconciliation each business day (CASS 7.15.12 R and CASS 7.15.15(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 (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 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 Firms are reminded that the internal client money reconciliation should achieve the purposes set out in CASS 7.15.14 G.

7.16.5 (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 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 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 The client money resource is the aggregate balance on the firm's client bank accounts.

7.16.9 (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 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 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.
A CASS 7 loan-based crowdfunding firm must not use the *individual client balance method* under this section.

(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*.

(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.

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:
   - individual client balances which are negative (ie, debtors); and
   - 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 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 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 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 (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:

<table>
<thead>
<tr>
<th>Individual client balance calculation</th>
<th>A</th>
<th>B</th>
<th>C1</th>
<th>C2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free money (sums held for a client free of sale or purchase (eg, see (3)(a)) and sale proceeds due to the client:</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(a) for principal deals when the client has delivered the designated investments; and</td>
<td></td>
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<td></td>
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<tr>
<td>(b) for agency deals, when:</td>
<td></td>
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</tr>
<tr>
<td>(i) the sale proceeds have been received by the firm and the client has delivered the designated investments; or</td>
<td></td>
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</tr>
<tr>
<td>(ii) the firm holds the designated investments for the client; and</td>
<td></td>
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<tr>
<td>the cost of purchases:</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>
(c) for principal deals, paid for by the client when the firm has not delivered the designated investments to the client; and

(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

(ii) the designated investments have been received by the firm but have not been delivered to the client;

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

proceeds remitted to the client for sales transactions by, or for, the client if the client has not delivered the designated investments.

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 contractually 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.
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

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.

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.

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

The margined transaction requirement should represent the total amount of client money a firm is required under the client money rules to segregate in
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**7.16.32**  
The total *margin 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*.

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**7.16.33**  
(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*.

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**7.16.34**  
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*).

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**7.16.35**  
If a *firm’s total margin 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 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 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 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 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 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 (i.e., it should not 'pre-fund' the transaction using other clients' client money).
7.18 Acknowledgment letters

Purpose

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 (e.g., 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

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.
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**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 acknowledgement 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.
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7.18.7 **G**

CASS 7 Annex 5 G contains guidance on using the template acknowledgement 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 acknowledgement 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 acknowledgement 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
deposit it in a *client bank account* with another bank as soon as possible.
7.19 Clearing member client money sub-pools

(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.

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.
7.19.3  
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.

7.19.4  
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  
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  
(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  
(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  
The firm must maintain an up-to-date list of all the sub-pools it has created.

Sub-pool disclosure document

7.19.9  
(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 Section 7.19.7, 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 Section 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.

In preparing a sub-pool disclosure document under Section 7.19.9 R (1), a firm may use the template in Section 7 Annex 6.

(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

Where a firm establishes one or more sub-pools, Section 7.13 (Segregation of client money) is to be read as applying separately to the firm's general pool and each sub-pool.

(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  
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  
(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  
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  
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  
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  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  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  Before materially changing a sub-pool, a firm must provide a copy of the notice provided to clients under CASS 7.19.18 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  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  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  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  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
(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 acknowledgment letter. Accordingly, it is important that it is clear to which account or accounts each acknowledgment letter relates. As a result, the templates in □ CASS 7 Annex 2, □ CASS 7 Annex 3 and □ CASS 7 Annex 4 require that the acknowledgment 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:

<table>
<thead>
<tr>
<th>Full account title</th>
<th>Unique identifier</th>
<th>Title reflected in [name of bank] systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investment Firm Client Bank Account</td>
<td>[00-00-00 12345678]</td>
<td>INV FIRM CLIENT A/C</td>
</tr>
</tbody>
</table>

11 Where an acknowledgement letter is intended to cover a range of client bank accounts 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 acknowledgement 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 (e.g., any handwritten details should be easy to read), produced on the firm’s own letter-headed paper, dated and addressed to the correct legal entity (e.g., where the 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 (i.e., 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 (e.g., 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 2 R) 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 (e.g., 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 (e.g., 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
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 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: