

Chapter 7

Client money rules

7.14 Client money held by a third party

- 7.14.1** **G** This section sets out the requirements a *firm* must comply with when it allows another *person* to hold *client money*, other than under **■ CASS 7.13.3 R**, without discharging its fiduciary duty to that *client*. Such circumstances arise when, for example, a *firm* passes *client money* to a *clearing house* in the form of margin for the *firm's* obligations to the *clearing house* that are referable to transactions undertaken by the *firm* for the relevant clients. They may also arise when a *firm* passes *client money* to an *intermediate broker* for *contingent liability investments* in the form of initial or variation margin on behalf of a *client*. In these circumstances, the *firm* remains responsible for that *client equity balance* held at the *intermediate broker* until the contract is terminated and all of that *client's* positions at that *broker* closed. Similarly, this section applies where a *firm* allows a *broker* to hold *client money* in respect of the *firm's client's non-margined transactions*, again without the *firm* discharging its fiduciary duty to that *client*. In all cases, if a *firm* wishes to discharge itself from its fiduciary duty, it should do so in accordance with the *rule* regarding the discharge of a *firm's* fiduciary duty to the *client* (**■ CASS 7.11.34 R**).
- 7.14.2** **R** A *firm* may allow another *person*, such as an exchange, a *clearing house* or an *intermediate broker*, to hold *client money*, but only if:
- (1) the *firm* allows that *person* to hold the *client money*:
 - (a) for the purpose of one or more transactions for a *client* through or with that *person*; or
 - (b) to meet a *client's* obligation to provide collateral for a transaction (for example, an *initial margin* requirement for a *contingent liability investment*); and
 - (2) in the case of a *retail client*, that *client* has been notified that the *firm* may allow the other *person* to hold its *client money*.
- 7.14.3** **G** *Client money* that a *firm* allows another *person* to hold under **■ CASS 7.14.2 R**:
- (1) should only be held for transactions which are likely to occur (and for which the other *person* needs to receive *client money*) or have recently settled (and such that the other *person* has received *client money*); and
 - (2) should be recorded in *client transaction accounts* by that other *person*.

- 7.14.4** **G** Apart from *client money* held by a *firm* in an *individual client account* or an *omnibus client account* at an *authorised central counterparty*, a *firm* should not hold excess *client money* in its *client transaction accounts*.
- Client money arising from, or in connection with, safe custody assets**
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- 7.14.5** **G** (1) *Money* arising from, or in connection with, the holding of a *safe custody assets* by a *firm* which is due to *clients* should, unless treated otherwise under the *client money rules*, be treated as *client money* by the *firm*.
- (2) *Firms* are reminded of the *guidance* in ■ CASS 6.1.2 G.
- 7.14.6** **R** If a *firm* has deposited *safe custody assets* with a third party under ■ CASS 6.3 and *client money* arises from, or in connection with, those *safe custody assets* then the *firm* must ensure that the third party either deposits the money in a *client bank account* of the *firm* or records it in a *client transaction account* for the benefit of the *firm clients* as appropriate.
- 7.14.7** **G** *Firms* are reminded of the *guidance* in ■ CASS 7.14.4 G which is applicable to *client transaction accounts*.
- 7.14.8** **G** If the third party holding the *safe custody assets* under ■ CASS 7.14.6 R is a bank with which the *firm* is permitted to deposit *client money* under ■ CASS 7.13.3 R, then the *client bank account* referred to in ■ CASS 7.14.6 R may be an account with that bank.
- 7.14.9** **G** *Firms* are reminded of the requirements under ■ CASS 7.18 for *acknowledgement letters*, which must be complied with before using *client bank accounts* and *client transaction accounts*.