

Chapter 7

Client money rules

7.18 Acknowledgment letters

Purpose

7.18.1

G

The main purposes of an *acknowledgement letter* are:

- (1) to put the bank, exchange, *clearing house*, *intermediate broker*, OTC counterparty or other *person* (as the case may be) on notice of a *firm's clients'* interests in *client money* that has been deposited with, or has been allowed to be held by, such *person*;
- (2) to ensure that the *client bank account* or *client transaction account* has been opened in the correct form (eg, whether the *client bank account* is being correctly opened as a *general client bank account*, a *designated client bank account* or a *designated client fund account*), and is distinguished from any account containing *money* that belongs to the *firm*; and
- (3) to ensure that the bank, exchange, *clearing house*, *intermediate broker*, OTC counterparty or other *person* (as the case may be) understands and agrees that it will not have any recourse or right against *money* standing to the credit of the *client bank account* or *client transaction account*, in respect of any sum owed to such *person*, or to any other third *person*, on any other account.

Client bank account acknowledgment letters

7.18.2

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- (1) For each *client bank account*, a *firm* must, in accordance with ■ CASS 7.18.6 R, complete and sign a *client bank account acknowledgement letter* clearly identifying the *client bank account*, and send it to the bank with whom the *client bank account* is, or will be, opened, requesting the bank to acknowledge and agree to the terms of the letter by countersigning it and returning it to the *firm*.
- (2) Subject to ■ CASS 7.18.14 R and ■ CASS 7.18.15 R, a *firm* must not hold or receive any *client money* in or into a *client bank account* unless it has received a duly countersigned *client bank account acknowledgement letter* from the relevant bank that has not been inappropriately redrafted (see ■ CASS 7.18.8 R) and clearly identifies the *client bank account*.

Client transaction account acknowledgement letters

7.18.3

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- (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

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- (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

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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

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When completing an *acknowledgment letter* under ■ CASS 7.18.2 R (1), ■ CASS 7.18.3 R (1) or ■ CASS 7.18.4 R (1), a *firm*:

- (1) must not amend any of the *acknowledgement letter fixed text*;
- (2) subject to (3), must ensure the *acknowledgement letter variable text* is removed, included or amended as appropriate; and
- (3) must not amend any of the *acknowledgement letter variable text* in a way that would alter or otherwise change the meaning of the *acknowledgement letter fixed text*.

- 7.18.7** **G** ■ CASS 7 Annex 5 G contains *guidance* on using the template *acknowledgment letters*, including when and how *firms* should amend the *acknowledgement letter variable text* that is in square brackets.
- 7.18.8** **R**
- (1) If, on countersigning and returning the *acknowledgement letter* to a *firm*, the relevant *person* has also:
 - (a) made amendments to any of the *acknowledgement letter fixed text*; or
 - (b) made amendments to any of the *acknowledgement letter variable text* in a way that would alter or otherwise change the meaning of the *acknowledgement letter fixed text*;
 the *acknowledgement letter* will have been inappropriately redrafted for the purposes of ■ CASS 7.18.2 R (2) or ■ CASS 7.18.3 R (3) (as applicable).
 - (2) For the purposes of ■ CASS 7.18.2 R (2) or ■ CASS 7.18.3 R (3), amendments made to the *acknowledgement letter variable text* in the *acknowledgement letter* returned to a *firm* by the relevant *person*, will not have the result that the letter has been inappropriately redrafted if those amendments do not affect the meaning of the *acknowledgement letter fixed text*, have been specifically agreed with the *firm* and do not cause the *acknowledgement letter* to be inaccurate.
- 7.18.9** **R** A *firm* must use reasonable endeavours to ensure that any individual that has countersigned an *acknowledgement letter* that has been returned to the *firm* was authorised to countersign the letter on behalf of the relevant *person*.
- 7.18.10** **R**
- (1) A *firm* must retain each countersigned *client bank account acknowledgement letter* and *client transaction account acknowledgement letter* it receives, from the date of receipt until the expiry of five years from the date on which the last *client bank account* or *client transaction account* to which the *acknowledgement letter* relates is closed.
 - (2) A *firm* must retain a copy of each *authorised central counterparty 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 *acknowledgment letter* returned to the *firm* was authorised to countersign the letter on behalf of the relevant *person*).

- 7.18.12** **R** (1) This rule applies to:
- (a) any countersigned *client bank account acknowledgement letter* or *client transaction account acknowledgement letter* received by a *firm* under ■ CASS 7.18.2 R (2) or ■ CASS 7.18.3 R (3) respectively; and
 - (b) any *authorised central counterparty acknowledgement letter* sent by a *firm* under ■ CASS 7.18.4 R (1), whether or not it has been countersigned by the relevant *authorised central counterparty* and received by the *firm*.
- (2) A *firm* must, periodically (at least annually, and whenever it is aware that something referred to in an *acknowledgement letter* has changed) review each of its *acknowledgement letters* to ensure that they all remain accurate.
- (3) Whenever a *firm* finds an inaccuracy in an *acknowledgement letter*, it must promptly draw up a replacement *acknowledgement letter* under ■ CASS 7.18.2 R or ■ CASS 7.18.3 R or ■ CASS 7.18.4 R, as applicable, and, if it is an *acknowledgement letter* required to be sent under ■ CASS 7.18.2 R, ■ CASS 7.18.3 R, ensure that the new *acknowledgement letter* is duly countersigned and returned by the relevant *person*.
- 7.18.13** **G** Under ■ CASS 7.18.12 R, a *firm* should draw up and send out a replacement *acknowledgement letter* whenever:
- (1) there has been a change in any of the parties' names or addresses as set out in the letter; or
 - (2) the *firm* becomes aware of an error or misspelling in the drafting of the letter.
- 7.18.14** **R** If a *firm's client bank account* or *client transaction account* is transferred to another *person*, the *firm* must promptly draw up a new *acknowledgement letter* under ■ CASS 7.18.2 R, ■ CASS 7.18.3 R or ■ CASS 7.18.4 R, as applicable, and, if it is an *acknowledgement letter* required to be sent under ■ CASS 7.18.2 R or ■ CASS 7.18.3 R, ensure that the new *acknowledgement letter* is duly countersigned and returned by the relevant *person* within 20 *business days* of the *firm* sending it to that *person*.
- 7.18.15** **R** If a *firm* opens a *client bank account* after a *primary pooling event*, the *firm* must:
- (1) promptly draw up and send out a new *acknowledgement letter* under ■ CASS 7.18.2 R;
 - (2) not hold or receive any *client money* in or into the *client bank account* unless it has sent the *acknowledgement letter* to the relevant *person*; and
 - (3) if the *firm* has not received a duly countersigned *acknowledgement letter* that has not been inappropriately redrafted (see ■ CASS 7.18.8 R)

within 20 *business days* of the *firm* sending the *acknowledgement letter*, withdraw all *money* standing to the credit of the account and *deposit* it in a *client bank account* with another bank as soon as possible.