

Client money

Welcome to a special client money edition of the retail intermediaries newsletter. Client money is an area many firms find hard to understand. This newsletter will concentrate on the main areas of concern firms have and give you some tips on how to get things right. This newsletter does not deal with the client money rules for insurance intermediaries.

Why we have the rules

Our client money rules are based on a basic underlying principle: we expect firms to know how much money is in their client bank account and segregate it and safeguard it for the benefit of the client. This gives firms a clear division of what is and isn't their money and protects clients if the firm goes into administration.

The requirements relating to holding client money can be found in our Client Assets Sourcebook (CASS): <http://fsahandbook.info/FSA/handbook.jsp?doc=/handbook/CASS>

Firms acting outside their scope of permission

Ensure that your firm only carries out the types of business which the FSA has authorised it to do within the scope of its regulatory 'permission'. Your firm's Scope of Permission Notice will tell you if you are required not to hold client money, as will your firm's details on Firms Online.

Why you should get this right:

You could be breaching the rules and increasing your legal risk

- Carrying out business your firm is not permitted to do is a breach of your regulatory permission. It could lead to your firm being sued for losses suffered by customers as a result, and to FSA disciplinary action.

You could be paying higher fees and have higher capital requirements than necessary

- If you have permission to carry out business that you do not actually do, then you may be paying higher regulatory fees and be required to hold more regulatory capital than is necessary.

Assessment of banks

Your firm owes a duty of care to its customers when deciding with which bank to deposit their money. This includes being sure the bank allows you to meet your regulatory requirements and that any account is set up and maintained correctly.

The full rules and guidance on selecting a bank and what you need to ensure that the bank does are set out in CASS 4.3.41G to 4.3.64R but here are some tips to help you comply with our rules:

Making sure the bank is appropriate

- Check to see if the bank is suitable before opening a client money account.
- Continuous assessment: at least once each financial year check that the bank remains appropriate. You need to be happy that the bank will continue to provide a service that will enable you to fulfil your regulatory obligations.

Trust status

- Before placing client money in an account with a bank, ensure you have received a notice of trust status from the bank.
- The bank must provide its trust status letter to you within 20 business days of you requesting it. If not, the firm must withdraw all money credited to the account and deposit it in a client bank account with another suitable bank as soon as possible.

Combining money

- The bank is not entitled to combine the client money account with any other account.
- The bank cannot claim the money in the client money account if the bank has a claim against your firm for money you owe the bank.

The title of the account

- The name of the account must distinguish it as a client money account.

Custody

Principle 10 of our Handbook requires firms to arrange adequate protection for any client assets it is responsible for. Our detailed rules and guidance are set out in CASS 2.

Separate client investments from those of the firm

- You are required to segregate a client's investment from those which are investments of the firm and make a clear distinction between the way they are registered and recorded (see CASS 2.2).

Why is this important?

- It is important client assets are segregated correctly to reduce the risk of a firm using client assets without the client's consent. It will also reduce the likelihood of client assets being treated as the firm's assets if the firm becomes insolvent.

Calculating client money

What do I need to do?

We require firms to perform a daily client money calculation. This is to check that at all times the firm is holding sufficient money in its segregated account(s) to meet its obligations to clients.

What if you place money belonging to the firm in a client money account?

- You will still need to perform the calculation. Money belonging to your firm can only be placed in a client money account in limited circumstances – see CASS 4.3.5R and CASS 4.3.6R.

What do I include?

The rules and guidance covering the calculation method are at CASS 4.3.65G onwards, but here are some key aspects which can often be overlooked:

- Remember to include all of your client money accounts.
- Debit balances must not be included in your firm's client money requirement, but must be included in your firm's client money resource – otherwise you would not be segregating enough money to cover all of your firm's obligations to your customers.
- You must include uncleared cheques in the client money requirement calculation. This is because when your firm draws a cheque (or other payable order) you must continue to treat the sum as client money until the cheque or order is cleared and paid by the bank.
- If you make a payment to a client from a non-client money account (your firm's account, for example) then you cannot take the equivalent amount from the client's account as reimbursement until the payment has cleared.

Reconciling client money

You must carry out a reconciliation of your client money balances at least every 25 business days but as frequently as necessary to ensure your client money records are accurate. Our rules on reconciliation start at CASS 4.3.89R.

Why does this need to be done?

- The reconciliation will show whether the money that your internal records say should be in the account is actually there. It helps ensure money has not been credited in error or placed there fraudulently.

Completing the reconciliation

- Once started, the reconciliation must be completed within ten business days of the date to which it relates.

Dormant accounts

- The reconciliation should also be applied to all client money accounts – including those used infrequently or which are dormant. If you do not wish to reconcile dormant accounts, they should be closed and the trust status letters amended accordingly. Balances in dormant accounts remain client money and so will need to be transferred to another client account or returned to the client. CASS 4.3.104R sets out a limited exception relating to long-term unclaimed balances.

Suspense or error accounts

- You should note that any unreconciled items on suspense or error accounts must be treated as client money unless you can prove categorically this is not the case.

Outstanding items

- Audit trails of the identification, investigation and resolution of outstanding items are useful to show why discrepancies have occurred and potentially identify weaknesses in your systems and procedures. Any weaknesses can then be sorted out. Our rules require you to maintain sufficient records to show and explain your firm's client money transactions.

Contact details

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