



Client Assets Department
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

By email to: cp16-04@fca.org.uk

11 February 2016

Dear sirs,

Consultation Paper 16/4 – Loan-based crowdfunding platforms and segregation of client money (CP 16/4)

Thank you for the opportunity to provide feedback on the changes to the client asset rules (CASS) that you have proposed in CP 16/4.

This submission is made by PricewaterhouseCoopers LLP (PwC), the UK member firm of the PwC network. In the UK, we are the auditor of many regulated firms and we report on their compliance with CASS, as well as providing advisory services in this area. We also have a team of dedicated specialists focusing on the impact that new regulatory developments have on the financial services sector. This letter is not intended to represent the views of our clients, but rather to identify and to comment on certain aspects of CP 16/4 which we believe to have particular significance.

We support the proposed changes as providing a practical option for crowdfunding firms, and the FCA's flexible approach which recognises the operational challenges these firms face. We believe that the election regime and notice requirements will help to provide firms and customers with better clarity on how client money is being protected. We offer a few comments on the specific areas of CP 16/4 on which you sought feedback in the Appendix to this letter.

We hope that our response will be helpful to you and we would be pleased to discuss our comments further with you. If you would like to do so, please contact Mike Newman at the address below on +44 (0)20 7212 5201.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M Newman'.

Michael P Newman

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Appendix

Q1: Do you have any comments on our proposal to allow firms to elect to hold all their clients' monies, in relation to both P2P and B2B agreements, in line with CASS?

We support the changes as providing a practical option for crowdfunding firms. The current situation can be complex, may be administratively costly and may pose operational risks. We believe that the FCA's proposed flexible approach is appropriate, and will benefit firms and their customers. We set out a few comments on the proposal below.

The wording in the proposed CASS 7.10.7BR would require a firm to 'write to' existing and future customers. It is not clear what form of communication is envisaged by 'write to', but particularly for future clients, we would envisage that the necessary information would be incorporated into standard terms and conditions, which might be available on the firm's website – not necessarily in an express written communication sent by the firm to the client. Also we are mindful of the need to have a flexible approach in this and other regulation, as more digital communications channels become available.

Throughout the draft rules in the Appendix to the CP, the FCA uses the word 'customer' but this is not in italics even though the term is defined in the FCA Glossary. We believe this could lead to a lack of clarity over whether the term has a different meaning in these rules than as defined in the Glossary. We therefore suggest the FCA uses the defined term for the purposes of the new rules, unless there is a policy reason not to, or alternatively use the defined term 'client' where that is appropriate.

We are concerned about the practicality and suitability of the FCA suggestion in para 2.12 that firms arranging business-to-business 'whole loans' might elect to comply with the CASS 7 rules; then establish trusts to enable them to take advantage of the limited regime application of CASS 7 for trustee firms. We consider that if a firm adopted this approach, it could add an unnecessary degree of operational complexity. We suggest that firms and customers might instead be permitted to retain the existing professional client opt-out in CASS 7.10.10R.

Q2. Do you have any comments on our cost benefit analysis?

No.

Q3. Do you have any comments on the compatibility statement?

No.