



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

By email to: cp17-29@fca.org.uk

1 November 2017

Dear Sirs

Consultation Paper 17/29 – Client money and unbreakable deposits (CP 17/29)

Thank you for the opportunity to provide feedback on the changes to the client asset rules (CASS) that you have proposed in CP 17/29.

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 17/29 which we believe to have particular significance.

We broadly support the proposed changes as providing a practical option for certain regulated firms that hold client money in relation to investment business, and the FCA's proposed changes to the CASS rules which recognises the challenges these firms face when depositing client money with banks.

However, we have a number of observations on the implementation of the proposed changes which we have set out in the Appendix to this letter under the specific areas of CP 17/29 on which you sought feedback.

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 Ben Higgin at the address below or on 020 7213 3901.

Yours faithfully

A handwritten signature in black ink, appearing to read 'B. Higgin'.

Ben Higgin

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Appendix - Comments on questions posed within CP 17/29

Q1: Do you agree with our proposal to permit firms to deposit client money in UD's of up to 90 days? If not, why not? Please provide specific examples.

We have considered the proposed changes and agree that they would provide a practical option for investment business firms to deposit all client monies into client bank accounts.

Q2: Do you agree with our proposal that where the expiry of a notice period falls on a day the bank is closed, provided that the firm is able to make the withdrawal on the next day that bank is open for business, this is not a breach of CASS 7. If not, why not? Please provide specific examples.

We have considered the proposed changes and agree with them.

Q3: Do you agree with our proposed conditions for firms that deposit client money in UD's of greater than 30 days? If not, why not?

We have considered the proposed CASS 7.13.14A R conditions and whilst we broadly agree with them we have some reservations concerning the implementation.

The proposed rules in (1)(b)(ii) and (2)(c) incorporate, respectively, compliance with COBS and SUP rules into the CASS Sourcebook. We do not consider that COBS communication requirements or SUP reporting requirements should be included within the scope of client money protection requirements as this may cause confusion to firms and would unnecessarily extend the scope of the CASS Audit to cover client communications and the completeness and accuracy of reporting of unbreakable deposits in the CMAR.

We therefore suggest that the proposed requirements in CASS 7.13.14A R (1)(b)(ii) and CASS 7.13.14A R (2)(c) be removed from CASS 7.

We comment on the specific reporting requirements in our response to Question 6.

The proposed requirements in CASS 7.13.14A R (1)(b)(i) would involve firms writing to all existing customers to explain the risks arising from the use of UD's. We suggest that this notice be incorporated into standard notification terms going forward, but that repapering of existing clients should not be required; and that this communication should also explain the perceived benefits.

Q4: Are the provisions setting out how a firm can demonstrate compliance with the requirement to take 'appropriate measures to manage the risk of the firm being unable to access client money when required' understandable and achievable? Would it be helpful to set out more detailed requirements and guidance such as for example those found in BIPRU 12.4 for considering stress scenarios or developing a contingency funding plan?

Proposed 7.13.14C E (1)(b) requires each firm to apply an 'appropriate set of horizons and stress scenarios' which are explained in 7.13.14D G as 'a variety of severe yet plausible institution-specific and market-wide liquidity shocks'. Whilst this may be understandable and achievable for sophisticated firms, we consider this to be unnecessarily onerous for the majority of small and medium sized CASS firms. We suggest that these elements should be included in guidance as matters to be considered, but not required for all firms.

Additional guidance on how firms might be expected to demonstrate compliance with this requirement would be beneficial as it would promote consistency in its application by firms. An appropriate balance in any guidance should be struck to be specific enough that firms consider consistent factors in assessing and managing the risk, while remaining practical for small, medium or large firms to implement.

It should be noted that any requirement, being part of CASS 7, will be subject to audit. Additional guidance would therefore also aid audit firms in forming their opinion on whether a firm has complied with the rules.

Proposed 7.13.14B R would require firms to retain superseded policy documents for five years. We do not consider such historical records to be sufficiently important to be included within a rule.

Q5: Do you agree with our policy to require a firm to include the written policy in its CASS RP? If not, why not?

We do not consider it necessary to require a firm to separately identify this policy in its CASS RP. We suggest that any policy on the use of UD, if material, would form part of a firm's manual of 'procedures for the management, recording and transfer of client money' and will therefore be included in the CASS RP under existing CASS 10.2.1 R (9).

Q6: Do you agree with our proposal to require CASS medium and large firms to report UD in this way? If not, why not.

We accept the requirement of CASS medium and large firm to report UD in CMAR.

Reported pre-consultation discussions (para 3.16) indicate that fixed term deposits are used less frequently than notice accounts. Whilst this may be the case, our experience suggests that fixed term deposits are typically higher value, and represent a significant proportion of the overall client money held.

We suggest that the reporting requirements should make clear whether firms should report the tenure of fixed term UD based on the full duration of the deposit or on the time remaining until maturity. For example if a firm places client money in a 90 day fixed term deposit maturing on 15 July, we would not expect this to be reported as a UD in the CMAR reporting on 30 June (because the remaining maturity is less than 30 days). This clarity would provide more consistent and meaningful reporting by firms.

Q7: Do you have any comments on our cost benefit analysis? Please provide explanations and quantitative evidence to support your response where appropriate.

We do have the following comments on the cost benefit analysis disclosed in CP17/29.

- The cost of disclosure to clients is quoted as being £250 for small and medium firms, and £1,500 for large firms. Given that firms can have thousands of existing clients who would need to be notified of the risks of a firm entering into UD, these estimates are lower than we would expect.
- Similarly, the combined cost of £212 to £270 to write a policy document and update the CASS RP with that document are lower than we would expect. Most firms would likely have in place governance routines involving a number of individuals to comment on and approve such policies.



- There will be an incremental increase in audit costs due to these rule changes which were not considered in the CP; particularly if the audit scope is inadvertently extended to cover provisions in COBS and SUP.

Is your response confidential?

No.