

**COMMERCIAL LICENSING REGULATIONS 2015
(CLIENT MONEY) RULES 2021**

Rules regulating the safeguarding of money and other assets belonging to clients

Date of Adoption: 17 March 2021

The Board of Directors of the Abu Dhabi Global Market, in implementation of the provisions of section 22 of the Commercial Licensing Regulations 2015, hereby makes the following rules—

1. Citation, commencement and interpretation

(1) These Rules may be cited as the Commercial Licensing Regulations 2015 (Client Money) Rules 2021.

(2) In these Rules and any guidance issued by the Registrar pursuant to these Rules—

"Client" means each person who has entered into or intends to enter into an agreement with a Licensed Firm for the provision of services by the Licensed Firm,

"Client Account" has the meaning given in Rule 6(1),

"Client Money" has the meaning given in Rule 4,

"Firm-Related Distribution Event" means, in respect of a Licensed Firm, any one or more of the following—

- (a) the appointment of a liquidator, receiver or administrator or of a trustee in bankruptcy,
- (b) an event in any jurisdiction equivalent to an appointment mentioned in paragraph (a),
- (c) the withdrawal or cancellation by the Registrar of the Licensed Firms' licence, or
- (d) the imposition or variation of a condition, restriction or requirement on the Licensed Firms' licence so that it is no longer permitted to hold Client Money,

"Licensed Firm" means a Licensed Person who is obliged to comply with these Rules,

"money" includes any right, instruction or direction to pay or be paid money or money's worth; and

"Regulations" means the Commercial Licensing Regulations 2015.

(3) Terms used in these Rules which are defined in the Regulations shall have the meaning given to them in the Regulations.

(4) These Rules come into force on 12 April 2021.

2. Application

These Rules shall apply to–

- (a) persons who are required to comply with these rules by the Commercial Licensing Regulations 2015 (Conditions of Licence and Branch Registration) Rules 2021, and
- (b) any other person whose conditions of licence require it to hold Client Money solely in accordance with these Rules.

3. General Requirements

A Licensed Firm must–

- (a) comply with these Rules, and
- (b) have in place the necessary policies, systems and controls, appropriate to the nature and scale of its operations, to prevent the inappropriate use of Client Money.

4. Client Money

- (1) For the purposes of these Rules, all money held by a Licensed Firm on behalf of a Client in the course of, or in connection with, the carrying on of any Controlled Activity in or from the Abu Dhabi Global Market is "Client Money" except where such money is immediately due and payable by the Client to the Licensed Firm for the Licensed Firm's own account.
- (2) A Licensed Firm, in holding Client Money, must hold it on trust for its respective Clients.
- (3) For the purpose of Rule 4(1), money which is immediately due and payable to a Licensed Firm for the Licensed Firm's own account includes money which is paid to the Licensed Firm (including by being deducted from Client Money held by the Licensed Firm) in settlement of fees, including–
 - (a) fees for services provided to a Client,
 - (b) expenses of the Licensed Firm incurred on behalf of the Client and payable by the Licensed Firm, and
 - (c) other charges that are due and payable to the Licensed Firm.
- (4) Client Money is "held" by a Licensed Firm if it is–
 - (a) directly held by the Licensed Firm,

- (b) held in an account in the name of the Licensed Firm, or
- (c) held by a person, or in an account in the name of a person, controlled by the Licensed Firm.

5. Holding Client Money in a Client Account

- (1) A Licensed Firm must ensure that Client Money is held–
 - (a) in a Client Account,
 - (b) separately from its own money (subject to Rule 9), and
 - (c) separately from another Client's money (subject to Rule 7),having regard to any guidance issued by the Registrar.
- (2) The title of the Client Account shall sufficiently distinguish the account from any other account containing money that belongs to the Licensed Firm.

6. Operation of a Client Account

- (1) A "Client Account" in relation to Client Money is an account that–
 - (a) is held with a bank authorised to accept deposits,
 - (b) is established to hold Client Money, and
 - (c) includes words "Client Account", or words to similar effect, in its title,having regard to any guidance issued by the Registrar.
- (2) A Licensed Firm must maintain a master list of all Client Accounts. The master list must detail in respect of each Client Account–
 - (a) the name of the account,
 - (b) the account number,
 - (c) the location of the account,
 - (d) the banker or custodian, its address and contact information,
 - (e) the account terms and conditions,
 - (f) whether the account is currently open or closed, and
 - (g) the date of opening or closure.

- (3) The details of the master list must be documented and maintained for at least six years following the closure of an account in accordance with the record keeping requirements set out in Rule 16.

7. Pooled Accounts

- (1) A single Client Account may be used to pool Client Money of more than one Client for one of the following reasons—
 - (a) operational efficacy, or
 - (b) due to an exceptional circumstance where the Licensed Firm is unable to segregate the money of one Client from that of other Clients.
- (2) For the purposes of Rule 7(1)(b) the Licensed Firm must inform the Registrar of the circumstances preventing the money from being segregated.
- (3) When a pooled Client Account is used to hold Client Money, the Licensed Firm must ensure that this is clearly and specifically agreed with the Client in writing.
- (4) The Licensed Firm must be able to promptly identify the individual balance due to each Client from a pooled Client Account.

8. Payment of Client Money into Client Accounts

- (1) Where a Licensed Firm receives Client Money it must ensure, subject to paragraph (5) below, that the Client Money is paid into a Client Account as soon as possible and in any event a Licensed Firm must, within five (5) business days of receipt, instruct its bank to effect that transfer.
- (2) If the Client Money is received by a Licensed Firm in the form of an automated transfer, it must take reasonable steps to ensure that—
 - (a) the money is received directly into a Client Account, and
 - (b) if money is received directly into the Licensed Firm's own account, the money is transferred into a Client Account without delay and in any event a Licensed Firm must, within one (1) business day of receipt, instruct its bank to effect the transfer.
- (3) If a Licensed Firm receives a mixed remittance (part Client Money and part other money), it must—
 - (a) pay the full sum into a Client Account in accordance with Rule 8(2), and
 - (b) transfer out that part of the payment which is not Client Money as soon as practicable and in any event a Licensed Firm must, within five (5) business days of the day on which it would normally expect the remittance to be cleared, instruct its bank to effect the transfer.

- (4) A Licensed Firm may only pay, or permit to be paid, Client Money into a Client Account where it has undertaken a prior assessment of the suitability of the relevant bank and concluded on reasonable grounds that the bank is suitable to hold that Client Money in a Client Account.
- (5) The requirement for a Licensed Firm to pay Client Money into a Client Account does not apply with respect to Client Money—
 - (a) received in the form of cheque, or other payable order, until the Licensed Firm is in receipt of the proceeds of that cheque, or
 - (b) temporarily held, for a maximum period of 30 days from the date of receipt or, if received in the form of a cheque, from the date of receipt of the proceeds of that cheque, by a Licensed Firm before forwarding to a person or entity nominated by the Client.
- (6) A Licensed Firm must have procedures for identifying Client Money received by it.

9. Segregation of Client Money

- (1) Subject to Rule 9(2), a Licensed Firm must not deposit its own money into a Client Account.
- (2) A Licensed Firm may hold money other than Client Money in a Client Account if it is—
 - (a) a minimum sum required to open the account or to keep it open,
 - (b) money that is temporarily in the account in accordance with Rule 8(3) (a mixed remittance), or
 - (c) interest credited to the account that exceeds the amount payable to Clients as interest, which excess must be transferred from the Client Bank Account within ten (10) business days of the interest having been so credited.
- (3) A Licensed Firm must maintain systems and controls for identifying money that is not permitted to be in a Client Account and for transferring any such money that is in a Client Account out of that account without delay.

10. Withdrawal of Client Money from Client Accounts

- (1) A Licensed Firm must have procedures in place for ensuring that all withdrawals from a Client Account are—
 - (a) subject to the appropriate level of authorisation and, at a minimum, dual authorisation, and
 - (b) in accordance with any constitutional documents.
- (2) Client Money must remain in the Client Account until it is—

- (a) due and payable to the Licensed Firm,
 - (b) paid to the Client on whose behalf the Client Money is held,
 - (c) paid in accordance with a Client instruction on whose behalf the Client Money is held,
 - (d) required to meet the payment obligations of the Client on whose behalf the Client Money is held, or
 - (e) paid out in circumstances that are otherwise authorised by the Client.
- (3) A Licensed Firm must not withdraw Client Money to pay for outstanding fees unless authorised by the Client on whose behalf the Client Money is held.
- (4) Subject to paragraph (2), a Licensed Firm must not use Client Money belonging to one Client to satisfy an obligation of another Client.

11. Disclosure

A Licensed Firm must, where relevant, inform any person with whom it proposes to enter into a contract or agreement in respect of the provision of controlled activities of the terms upon which Client Money is held.

12. Client Reporting

- (1) A Licensed Firm must send a statement to the Client quarterly or at such other intervals as are agreed in writing with the Client, in accordance with the requirements set out in guidance that may be issued by the Registrar from time to time.
- (2) The statement must include—
- (a) the Client's total Client Money balances held by the Licensed Firm reported in the currency in which the Client Money is held,
 - (b) the amount, date, value and description of each credit and debit paid into and out of the account since the previous statement,
 - (c) any interest earned and charged on the Client Money since the previous statement, and
 - (d) any other information that may be specified in the guidance issued by the Registrar pursuant to these Rules.

- (3) The statement sent to the Client must be prepared within one (1) calendar month of the statement date.

13. Provision of information

Where these Rules requires information to be sent to a Client, a Licensed Firm must provide that information directly to the Client and not to another person, unless–

- (a) the Licensed Firm has been instructed by the Client in writing to provide the relevant information to another person, and
- (b) such other person is not connected with the Licensed Firm.

14. Reconciliation

- (1) A Licensed Firm must ensure that a reconciliation is carried out between its records of Client Money and records or statements from a bank in which that Client Money is kept.
- (2) A Licensed Firm shall determine the appropriate frequency of reconciliation and perform the reconciliation promptly.
- (3) A Licensed Firm must maintain accurate and up to date records in relation to Client Money which enable it to promptly identify the balance due to each Client and which are in a form that allows timely reconciliation.
- (4) When a discrepancy is identified, during reconciliation, a Licensed Firm must investigate the reason for the discrepancy and take all reasonable steps to resolve it without delay.
- (5) "Discrepancy" in paragraph (4) above refers to the situation where records of Client Money kept by the Licensed Firm, do not match the statement received from the bank in which the Client Money is held.

15. Annual Review of Controls

A Licensed Firm that holds Client Money must implement an annual independent review of the controls over Client Money that were in place over the period from 1 January to 31 December of the preceding year. The review must–

- (a) verify the effectiveness of the controls with particular regard to the prevention of–
 - (i) loss,
 - (ii) misuse, and
 - (iii) misappropriation of Client Money,
- (b) be performed by an appropriate, independent person who may be an internal or

external party, and

- (c) be delivered to the Registrar by the end of April of each year, for the period covering the preceding year.

16. Record Keeping

- (1) A Licensed Firm must maintain records that enable it to—
 - (a) demonstrate to the Registrar its compliance with the requirements set out in these Rules,
 - (b) demonstrate and explain all entries of Client Money held or controlled in accordance with these Rules; and
 - (c) ensure that all relevant records are capable of being checked or audited to demonstrate compliance with any applicable requirements.
- (2) Except as otherwise stated, all records maintained by a Licensed Firm pursuant to these Rules must be kept for at least six (6) years.

17. Client Money Distribution

Following the occurrence of a Firm-Related Distribution Event in relation to a Licensed Firm, that Licensed Firm must distribute money from the Client Account in the following order of priorities (subject to the deduction of any fees payable to the insolvency practitioner or other similar official that has responsibility for distributing such Client Money)—

- (a) first, all Client Money shall be pooled and distributed among the Licensed Firm's Clients on a proportionate basis in accordance with the value of their respective valid claims against the Licensed Firm in respect of money owed to them by the Licensed Firm that is Client Money,
- (b) secondly, upon satisfaction of all claims in (a) above—
 - (i) if a liquidator, receiver, administrator, or trustee in bankruptcy has been appointed over the Licensed Firm, the surplus (if any) shall be distributed in accordance with the Insolvency Regulations 2015, or
 - (ii) in all other cases, the Licensed Firm shall give prior written notice to the Registrar of the manner in which it proposes to distribute any surplus and the Licensed Firm may distribute the surplus in such manner unless the Registrar objects in writing within thirty (30) days of such notice.

18. Registrar's Powers

The Registrar may publish, from time to time, guidance to supplement the provisions of these Rules.