Cayman Monetary Regulatory Authority International

At the forefront of financial regulation, the Cayman Monetary Regulatory Authority International (CMRAI) is dedicated to upholding the highest standards of financial oversight and compliance. Our mission is to safeguard the stability and integrity of the global financial system by ensuring that financial services operate within a framework of transparency, accountability, and excellence.

As a trusted partner to financial institutions worldwide, CMRAI provides rigorous supervision, innovative solutions, and strategic guidance to foster a secure and thriving financial environment. With decades of experience and a commitment to global standards, we stand as a pillar of trust and security in an ever-evolving financial landscape.

With a legacy of excellence in financial oversight, the Cayman Monetary Regulatory Authority International (CMRAI) is a beacon of trust in the international financial community. Our role extends beyond regulation; we are innovators, collaborators, and protectors of the global financial ecosystem. By fostering compliance, promoting best practices, and embracing technological advancements, CMRAI ensures that financial services remain resilient and adaptable in a dynamic global market.

Our comprehensive approach to regulation encompasses a deep understanding of financial risks and a proactive stance on emerging challenges. We are committed to empowering financial institutions with the tools and guidance necessary to navigate complex regulatory landscapes, thereby contributing to global economic stability and growth.

Statement of Guidance Client Assets, Money and Safekeeping Securities Investment Business 1. Statement of Objectives To clarify what constitutes client money, what is not considered client money and how client assets and money should be kept safe by the securities investment licensee. 2. Introduction Provisions for the handling of Client Money and Assets form part of the Conduct of Business Regulations in part IV which seeks to fulfil two objectives: To seek to protect client assets and money from the claims of creditors in the event of a licensee s insolvency To prevent licensees from using client funds to finance their own business 3. Segregation A key element to how the client money regulations work is the principle of segregation, i.e. the separation of client funds from those of the licensee. As a general rule, client money must be held separately from the licensee s own money. Specific exceptions may arise under the regulations or this guidance. Adequate protection is afforded by segregating client accounts form the licensee s accounts which should prevent liquidators from setting off clients assets against the debts of the licensee itself as well as preventing the licensee from using clients funds to finance its own business. (See Appendix A for a sample letter that may be used as one step to ensure segregation.) A licensee must, except to the extent permitted by this Statement of Guidance, hold Policy and Development Division

client money separate from the licensee s own money. 3.1. Where a licensee deems it prudent to do so, to ensure that its clients are protected, it may deposit its own money into a client bank account, and such money will be client money for the purposes of this Statement of Guidance. 3.2. Where a licensee pays its own money into a client bank account on the instructions of the Authority, such money will be client money for the purposes of this Statement of Guidance. 3.3. A licensee must not hold money other than client money in a client bank account unless it is: a) a minimum sum required to open the account or keep it in being; b) money temporarily in the account; or c) interest credited to the account which: exceeds the amount due to clients as interest; and has not yet been withdrawn by the licensee. 4. Safekeeping If the licensee s own securities are registered in the same name as that in which clients safe custody securities are registered, the licensee must: (a) register the clients safe custody securities in a designated account different from the designated account in which the licensee's securities are registered; and (b) hold, if applicable, separate certificates evidencing title for the securities belonging to the licensee and for clients' safe custody securities. 4.1. Use of an Custodian (for a description see chart in 4.4) A licensee must not lodge safe custody securities with a custodian in a co- mingled account unless the custodian has agreed in writing that: 4.1.1 the account is designated in such a manner that the safe custody

 securities credited to it do not belong to the licensee; 4.1.2 the custodian cannot permit withdrawal of any safe custody securities from the account otherwise than to the licensee or on the licensee's instructions; 4.1.3 the custodian will, on request, deliver to the licensee a statement specifying the description and amounts of all safe custody securities credited to the account; and 4.1.4 the custodian will not claim any lien or right of retention or sale over the safe custody securities standing to the credit of any account designated pursuant to (a) above, except to the extent of any charges relating to the administration or safekeeping of safe custody securities. 4.2. A licensee must ensure that any nominee company controlled by the licensee in whose name safe custody securities are registered maintains accounting records in accordance with the Statement of Guidance of the Nature, Accessibility and Retention of Records in respect of those securities. 4.3. In order to meet the provisions of Regulation 29 of the SIBL (COB) Regulations it is advisable that a licensee; a) Seek through the terms of the custodian agreement, that the custodian s records clearly distinguish between assets belonging to clients and those belonging to the licensee; and b) Take reasonable steps to monitor the custodian s records to assess whether that obligation is being met. 4.4. Custodians The choice of custodian is determined by the SIBL (COB) Regulations with reference to the Companies Law. The result is that the choice is more limited in the case of private clients. See the chart below: Market Counterparty and Professional Client Assets Private Client Assets

---

 Custodian is any person who the licensee reasonably believes to be in the business of custodian services Custodians are either recognised or authorised Recognised Authorised Investment exchange or a clearing organisation operating a securities clearance or settlement system and carrying on business in a country specified in Schedule3 of the Money Laundering Regulations and that had been approved by the Authority to act as custodian of bearer shares. Person licensed under the Companies Management Law and specifically permitted to act as a custodian of bearer shares or; A bank or trust company licensed under the Banks and Trust Company Law. 5. Money 5.1. Client Money The Regulations define client money as money of any currency which in the course of carrying on securities investment business, a licensee holds or owes to a client 5.2. In simplistic terms the key features of client money are that the money belongs to the client but is in the licensee s possession for the purpose of entering into a securities investment business transaction with or for the

---

 client. 5.3. Collateral Two types of collateral are envisaged; firstly assets held under an agreement that they become the licensee's property if the client defaults in the course of investment business and pursuant to regulation 28 of the SIBL (Conduct of Business) Regulations, must be held according to the normal client asset rules until such time as a

default occurs. In statements to the client, however, they must be separately identified as falling under the collateral agreement. The second type is where a client provides a licensee with collateral to secure the client s obligations. This should be done under a separate agreement and the licensee must keep adequate records to enable it to return the same or equivalent assets to the client should it be required to do so. 5.4. Exceptions 5.4.1 Money belonging to professional clients and market counterparties is considered client money unless they confirm in writing that they do not wish it to be treated as such. This is called opting-out and can be done by professional clients and market counterparties. Private clients money however is always client money. 5.4.2 Any money due and payable to the licensee (e.g. fees, commissions etc). 5.4.3 Money from group companies, major shareholders or other connected clients. (The logic behind this exception is to prevent the client money pool being polluted by money from those with an interest in the licensee.) 5.4.4 Money received from a client and which is due to settle a transaction within 24 hours.

5.5. Specific instructions regarding payments by clients License holders should instruct all clients and other relevant parties to make such cheques, drafts and electronic transfers payable as appropriate to [licence holder] Client Bank Account . 5.6. Payments to and from Client Money Accounts 5.6.1 Where client money is received by the licensee in the form of an automated transfer, the licensee must ensure that: a) where possible, the money is received directly to a client bank account; and b) in the event that the money is received directly to the licensee s own account, the money is paid into a client bank account in accordance with Regulation 40 (COB) Regulations. c) Where a licensee receives a mixed remittance that is part client money and part other money, it must pay the full sum into a client bank account in accordance with Regulation 40. Then the money that is not client money must be paid out of the account as soon as practically possible. 5.6.2 Where a licensee is liable to pay money to a client, either in respect of an investment agreement entered into with or for that client in the course of the licensee s investment business, or by way of interest on client money, it must as soon as possible and no later than one business day after the money is due and payable: a) pay it into a client bank account in accordance with above; or b) pay it out in accordance with regulation 47 of the (Conduct of Business) Regulations. 5.6.3 Where a licensee receives dividends outside the Cayman Islands on behalf of its client, it may pay that money into any bank account operated by the licensee, provided that such money is distributed to the

---

clients concerned, or paid into a client bank account in accordance with above as soon as possible but no later than three business days after notification of receipt. 5.6.4 A licensee must have procedures to ensure that money received by its employees or field representatives is either: paid into a client bank account of the licensee in accordance with above; or forwarded to the licensee, no later than the next business day after receipt. 5.6.5 Where a licensee draws a cheque or other payable order under Regulation 47 of the Conduct of

Business regulations, the money does not cease to be client money until the cheque or order is presented and paid by the bank. 5.6.6 Where a licensee makes a payment to a client, or to a third party on the instructions of the client, from an account other than a client bank account, the sum of money in the client bank account equivalent to the amount of that payment will not become due and payable to the licensee until the client or other party has received that payment in cleared funds. 6. Approved Banks 6.1. Client Money must be held at approved banks as defined in the (COB) Regulations. 6.2. If an approved bank becomes licensed to conduct Securities Investment Business, then in principle it may continue to be an approved bank for the purposes of holding the client money as a SIBL licensee. The requirements of segregation must be observed and disclosure made to the client. 6.3. If a brokerage licensee is part of a banking group, it may place client funds in the accounts of the group bank, but only if the bank is approved and

---

 disclosure is made to the client. 6.4. If a licensee deems it prudent, client money can be diversified across different banks and/or different accounts. 6.5. Use of an approved bank outside the Cayman Islands: A licensee must not hold client money on behalf of a client in a client bank account outside the Cayman Islands, unless that fact is disclosed to the client in writing. 7. Client Money held outside the Cayman Islands 7.1. A licensee must not undertake any transaction for a client that involves client money being held outside the Cayman Islands unless disclosure is made to the client that; 7.1.1 the legal and regulatory regime applying to the entity holding the client money will be different from that of the Cayman Islands and in the event of a default of the entity, the client money may be treated differently from the position which would apply if the money was held by an entity in the Cayman Islands; and 7.1.2 the client should consider taking independent legal advice if he is concerned about the implications of 7.1. 7.2. Where a client has notified a licensee in writing prior to entering into a transaction that he does not wish his money to be passed to an entity in a particular jurisdiction, the licensee must not effect the transaction and either: 7.2.1 deposit the money in a client bank account; or 7.2.2 return the money to the client. 8. Types of Client Bank Accounts 8.1. The Regulations refer to the use of Client Bank Accounts that may include money of one or more clients. In the event of liquidation or default, the account is pooled. It is in this event merged with other non-designated

---

 accounts and funds are distributed pro-rata. 8.2. Contingent Liability Transactions: When a licensee undertakes contingent liability transactions for clients, it must under no circumstances use clients money to fund the position of another client. If a client is under-margined the licensee is required to introduce its own money to top up the account. The money introduced by the licensee becomes client money. 8.2.1 It is advisable to utilise separate Margin Bank Accounts for client money used for contingent liability transactions. Even then the requirement in 8.1 still applies where more that one client s money are in such an

account. 8.2.2 Furthermore, Margined transactions should be reconciled on a daily basis. 9. Amounts to be held in client money accounts 9.1. Each business day, a licensee must ensure that the aggregate balance on its client bank accounts is, by the close of business that day, at least equal to the client money requirement in accordance with 9.3 below as at the close of business of the previous business day. In order to satisfy this requirement a licensee may be required to pay money into a client bank account, and such money will be client money. 9.2. For the purposes of 9.1 above, a licensee should use the values contained in its accounting records, e.g. cash book, rather than values contained on statements received from its banks. 9.3. The client money requirement is the sum of: a) the individual client balances calculated in 9.4 below, excluding individual client balances which are negative (i.e. receivable); and clients equity balances; and b) the total margined transaction requirement , which is calculated in 9.5 below.

 9.4. The individual client balance for each client is the sum of: a) free money where there are no trades; b) in respect of principal deals, sale proceeds due to the client where the client has delivered the securities (except that if received prior to the settlement date agreed with the client for that trade, a licensee may segregate the securities instead of the money). c) in respect of agency deals, sale proceeds due to the client where either the sale proceeds have been received by the licensee and the client has delivered the securities , or the licensee holds the client s securities, (except that in both cases the licensee may segregate the securities instead of the money); d) in respect of principal deals, the cost of purchases which have been paid for by the client but the licensee has not delivered the securities to the client (except that a licensee may segregate the securities instead of the money); and e) in respect of agency deals, the cost of purchases which have been paid for by the client where either the licensee has not remitted the money to, or to the order of, the counterparty, or the securities have been received by the licensee but have not been delivered to the client (except that a licensee may segregate the securities instead of the money), less: f) money owed by the client in respect of unpaid purchases where delivery of such securities has been made to the client; and g) proceeds remitted to the client in respect of sales transactions where the client has not delivered the securities . 9.5. The total margined transaction requirement (MTR) is: a) the sum of each of its client s equity balances which are positive; less: b) the proportion of individual negative client s equity balances which

---

 is secured by approved collateral; and c) the net aggregate of the licensee s equity balance (negative balances being deducted from positive balances) on transaction accounts for clients with securities investment intermediaries. e.g Where a licensee has four clients who have margined transactions with a firm and Client A is net positive(+ve) $1000, Client B is net negative (-ve) $500, Client C is net ve $500 but has $300 collateral with the firm, Client D is net +ve $2000, and the licensees equity balance is net +ve $2000, the calculation would be:

Client A 1000 Client D 2000 Client Equity balance= 3000 Less Client C collateral 300 Licensee s equity balance 2000 Total MTR 700 10. Interest 10.1. A licensee must disclose to a private client whether or not interest is payable to the private client in respect of client money and, if so, on what terms. 10.2. On all client accounts (except margin accounts) interest payable should be paid at a rate not less than the minimum deposit rate for the relevant currency publicly offered by the approved bank at which the money is held. 10.3. Interest should be credited to the client at intervals no greater than six months. 10.4. However, the client has the right to waive this right but this must then be documented.

---

11. Reconciliation 11.1. Accounts holding Client Money 11.1.1 The maximum intervals at which the various accounts should be reconciled is five weeks. However, margined transactions should be reconciled on a daily basis. 11.1.2 Where a licensee is unable to resolve a difference arising from a reconciliation , but one of the sets of records examined by the licensee during its reconciliation indicates that there might need to be a greater amount of money in the relevant client bank accounts or approved collateral than is in fact the case, the licensee must assume, until the matter is finally resolved, that that set of records is accurate and pay its own money into a client bank account and such money will be client money. 11.2. Client Title Documents (securities) Pursuant to Regulation 35 of the Conduct of Business Regulations a licensee (or the nominee company controlled by the licensee or an affiliated company) must reconcile its books and records at least every six months by either the Total Count Method or the Rolling Stock Method and promptly correct any discrepancies that are revealed. The obvious problem with the Rolling Stock method is that it would be possible to use securities that belong to one client, not being reconciled on one occasion in order to satisfy the position of another client. This would enable fraud to go undetected for a considerable period of time. Under the Total Count Method any fraud would become obvious in the next reconciliation. However, as the Total Count method may place a considerable burden on licensees the Authority will consider requests to utilise the Rolling Stock Method where adequate controls are in place. 11.3. The Total Count Method is the process whereby every six months the licensee physically counts and inspects all client title documents held by it (to which regulation 35 applies). Where such client title documents are held by third parties the licensee should obtain written confirmation of the fact that the

---

client title documents have been physically counted, inspected and are accounted for. 11.4. The Rolling Stock Check Method is the process whereby on a given month the licensee, rather than reconciling all client title documents (to which Regulation 35 applies), would simply reconcile those belonging to clients whose names begin a to e and so on. This process is carried out on a rolling basis within every six month period. 11.4.1 The Rolling Stock Check Method may only be used with the Authority's prior consent and following

receipt by the Authority of a report signed by the licensee's auditors in such form as the Authority determines.

 XYZ Bank Address 16 August 200X Dear Sir or Madam ABC Brokers Client Segregated Account No 000123 With reference to the above account in our name, please note that this account is a segregated client account. In view of this classification you are hereby advised that, in accordance with SIBL Conduct of Business Regulations 2002 and the various guidance on client money issued there under: a) All money standing to the credit of the account is held by the licensee on behalf of the client and that the bank is not entitled to combine the account with any other account(s) or to exercise any write of set-off or counterclaim against money in the account in respect of any sum owed to them on any other account of the licensee. b) Interest payable in respect of sums credited to the accounts shall be credited to the account. c) The account should be entitled ABC Brokers Segregated Client Account . Please acknowledge your acceptance of the terms of this notice by signing the attached copy and returning same to us within no more than 20 business days. Yours faithfully,