

BYE LAW 4

CLIENT MONEY

4.1

This Bye Law 4 applies to all client monies held by a *Firm* other than monies held in respect of investment services/investment business under Bye Law 14. A *Firm* which receives or holds client's money must immediately open one or more client bank accounts. A *Firm* may maintain one or more client bank accounts as appropriate. A *Firm* is not required to have separate client money bank accounts for individual clients. All money which is clients' money must be held in a client bank account if it is not being passed directly to the client or on the client's instructions paid directly to a third party if the cheque can be endorsed over.

4.2

A *Firm* may not override this Bye Law 4 on the instructions of a client.

4.3

No money in a client bank account can be used for any purpose other than in accordance with the client's authority and order.

4.4

Client money shall be kept in a client bank account by a *Firm* for a specific purpose and for no longer than is necessary for that specific purpose.

4.5

A *Firm* may not hold client money in a client bank account for the sole purpose of holding the money on deposit for the client.

4.6

OPENING A CLIENT BANK ACCOUNT

4.6.1

On opening a client bank account, a *Firm* must notify the bank *In Writing* that:

1. all money is held by the *Firm* as a trustee (or agent) and that the bank may not combine the account with any other account or exercise any right to set off or counterclaim against that account for any money owed to it by any other account of the *Firm*;
2. interest payable on the money in the account must be credited to that account;
3. the bank must describe the account in its records to make it clear that the money in the account does not belong to the *Firm*; and
4. the bank must acknowledge *In Writing* that it accepts these terms.

4.6.2

If the bank does not provide the acknowledgement required as set out above within 20 business days of the *Firm* sending the notice, the *Firm* must:

- withdraw all money from the account
- close the account; and
- deposit the money with another bank in a client bank account; or
- as a last resort, return the money to the client.

4.6.3

A *Firm* may only hold clients' money in a bank outside the Republic of Ireland if the client is informed *In Writing*:

- of the country or territory where the account will be held; and

Effective from 14 May 2010

- the *client* has agreed *In Writing* to the money being paid into, or remaining in, that bank.
- either:
 1. that the bank has given the acknowledgement required as set out above
 2. where the bank's acknowledgement has not been received, the *Firm* has advised the client that the clients' money held in that account may not be protected as effectively as it would if held in a bank in the Republic of Ireland;

4.6.4

A *Firm* may not hold clients' money (or money which would, if held in a bank be clients' money) outside the European Union unless:

- the client is informed *In Writing* of the country or territory where the account will be held; and
- the client has agreed *In Writing* to the money being paid into, or remaining in, the institution where the money is held: and
- the client accepts *In Writing* that where money is so held it will not have the protection afforded by this bye law.

4.7

WHEN A FIRM MUST PAY MONEY INTO A CLIENT BANK ACCOUNT

4.7.1

A *Firm* must only pay money into a client bank account, if:

- the *Firm* is required to make such payment under this Bye Law 4 ; or
- the money is the *Firm*'s own money and:
 - (i) it is required to be so paid for the purpose of opening and maintaining the account and the amount is the minimum amount required for that purpose; or
 - (ii) it is so paid in order to restore in whole or in part any money paid out of the account in contravention of this Bye Law 4.

A *Firm* shall not be regarded as having breached this Bye Law 4 simply because it transpires that money which the *Firm* paid into a client bank account in the reasonable belief that it was required so to do under this Bye Law should not have been paid into such an account, provided that immediately upon discovering the error the *Firm* takes the necessary steps to withdraw the money which has been paid into such account in error.

4.8

WHEN MONEY CAN BE WITHDRAWN FROM A CLIENT BANK ACCOUNT

4.8.1

Money may only be withdrawn from a client bank account for or towards payment of fees payable by the client to the *Firm* if:

- the precise amount thereof has been agreed by the client or has been finally determined by a court or arbitrator; or
- the fees have been accurately calculated in accordance with a formula agreed *In Writing* by the client on the basis of which the amount thereof can be determined; or
- thirty business days have elapsed since the date of delivery to the client of a statement of fees and the client has not questioned the amount therein specified as due.

4.9**CLIENT RECORDS****4.9.1**

A *Firm* must keep clients' money records including the notice to the Bank and acknowledgement from the Bank set out in this Bye Law 4. The records must have:

- details of all money paid into and out of all client bank accounts;
- entries of all clients' money paid direct to the client, or, on the client's instructions, paid to a third party, identifying that person;
- entries of all cheques received and endorsed over by the *Firm* to the client or, on the client's instruction endorsed over to a third party, identifying that person; adequate documentation supporting the reasons for cheque endorsement must be retained.
- entries of all electronic transfers received or made of money and transferred direct to the client or, on the client's instructions, transferred to a third party, identifying that person; and
- details of all transactions on each client's ledger account which will easily identify the balance held for each client and which will reconcile to the total of clients' money held in the client bank accounts.

A *Firm* must prepare, for the year ending on its accounting reference date, a summary of all clients' money received or held since the last summary showing, for clients' money:

- the closing balance from the previous summary;
- total receipts;
- total payments; and
- the total of all reconciled balances on all client accounts at the accounting reference date, the number of individual bank accounts and the number of different clients for whom money is held;

4.9.2

The *Secretary* of the *Institute* has the power at any time to inspect and take copies of all documentation in the possession of the *Firm* in relation to clients' account(s). The *Secretary* has the right to delegate this power.

4.10**INTEREST****4.10.1**

It is the duty of a *Firm* to agree all matters in relation to interest with a client in advance of accepting any client money. That agreement must be evidenced *In Writing* and signed by the client. That agreement must be retained by the *Firm* for six years from the date the account is closed.

4.11**RECEIPTS****4.11.1**

A receipt must be issued by a *Firm* when it receives money from a client.

4.11.2

A receipt must contain details of the following:

- The name and address of the *Firm*;
- The nature and reasons for the transaction;
- The value or amount of the payment;
- The date the payment was received;
- The purpose of the payment;
- If the payment is for onward transmission to an agent, the name and address of that agent; and
- The name and address of the person furnishing the payment.