

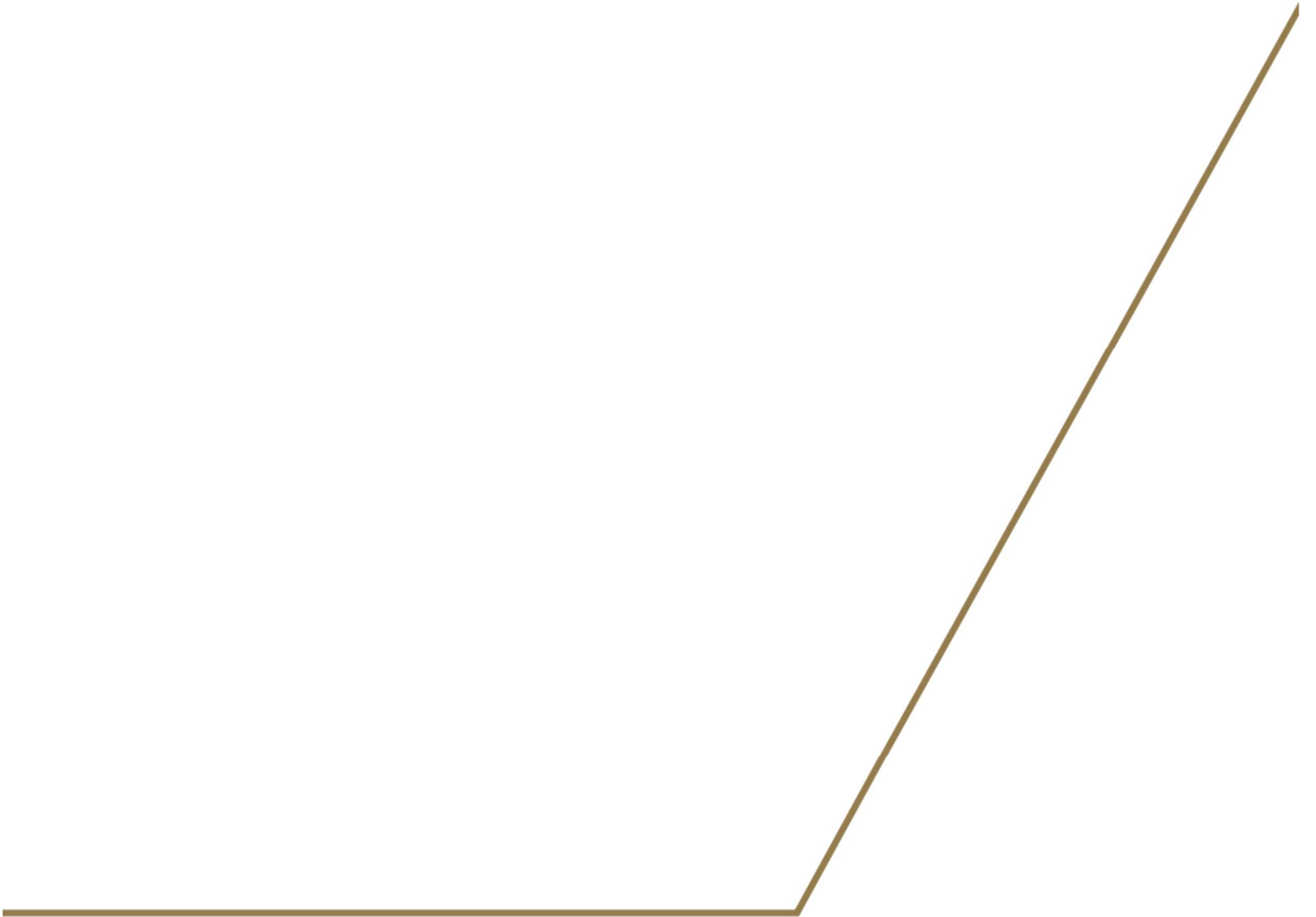


ABU DHABI
GLOBAL MARKET

Guidance on Client Money

Registration Authority

March 2023



1. INTRODUCTION

Introduction to Abu Dhabi Global Market

- 1.1 Abu Dhabi Global Market (**ADGM**) is a broad based international financial centre, established pursuant to Federal Decree No. 15 of 2013 and Abu Dhabi Law No. 4 of 2013 (**ADGM Law**) in the Emirate of Abu Dhabi. With its own civil and commercial laws based on English common law, ADGM offers the local, regional and international business community a world-class legal system and regulatory regime.
- 1.2 The ADGM Registration Authority (**RA**) is the commercial regulator of the ADGM. It is responsible for the licensing, registration and incorporation of entities seeking to establish a presence in the ADGM as well as monitoring and enforcing the ADGM's commercial legislation and facilitating government services.

Guidance overview and application

- 1.3 This guidance is issued under section 28 of the ADGM Commercial Licensing Regulations 2015 and section 18 of the ADGM Commercial Licensing Regulations 2015 (Client Money) Rules 2021 (**Client Money Rules**).
- 1.4 This guidance should be read in conjunction with the Client Money Rules.
- 1.5 This guidance applies to Licensed Firms to whom the Client Money Rules apply by operation of Rule 2 of the Client Money Rules. That is –
 - a) Licensed Firms who are required to comply with the Client Money Rules in accordance with 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 the Client Money Rules.
- 1.6 This guidance has been prepared to provide information and clarification on the operation and requirements of the Client Money Rules.
- 1.7 The RA considers that the proper safeguarding of money belonging to Clients against misuse, misappropriation, loss or theft is essential to the pursuit of its regulatory objectives. Licensed Firms that hold or control Client Money are obliged to have in place the necessary policies, systems and controls in relation to, for example, the identifying, handling, segregating and withdrawal of Client Money from Client Accounts.
- 1.8 Unless otherwise defined or the context otherwise requires, the terms contained in this guidance have the same meaning as defined in the Client Money Rules.
- 1.9 A copy of the Client Money Rules is available on the ADGM website [here](#).

2. CLIENT MONEY RULES

Definitions

Client

2.1 Client is defined in Rule 1(2) of the Client Money Rules as:

“...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”.

2.2 It should be noted that this definition is intended to apply to both founders and beneficiaries in relation to foundations.

Client Money

2.3 Client Money is defined in Rule 4(1) of the Client Money Rules as:

“...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.”

2.4 The term, *“immediately due and payable by the Client to the Licensed Firm for the Licensed Firm's own account”* is given further meaning in Rule 4(3).

2.5 Examples of *‘immediately due and payable by the Client to the Licensed Firm for the Licensed Firm's own account’* include, among other things –

- a) a Licensed Firm's invoice for its fees and charges for services rendered to the Client; and
- b) invoicing for third party expenses incurred on behalf of a Client, such as registration or filing fees paid by the Licensed Firm and which is to be recovered from the Client.

2.6 *‘Immediately due and payable by the Client to the Licensed Firm for the Licensed Firm's own account’* does **not** include, for example, a Licensed Firm issuing an invoice to a Client -

- a) to obtain and hold money from the Client to cover or expedite the payment of any future / potential fees (i.e. fees for services not yet provided by the Licensed Firm), or
- b) to cover any future / potential third party expenses or disbursements (i.e. expenses not yet incurred).

2.7 A licenced Firm must ensure that Client Money is held in a Client Account that is separate to its own money and separately from another Client's money (subject to Rule 7).

Client Account

2.8 Client Account is defined in Rule 6(1) of the Client Money Rules, as:

“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.”

2.9 Client Accounts should be established with a bank licensed or authorised to accept deposits by the relevant financial services regulatory authority in the jurisdiction in which the Client Account is established.

2.10 The RA may request documentation from a Licensed Firm demonstrating the rationale and appropriateness for selecting the particular bank where its Client Money accounts are held.

2.11 In accordance with Rule 4(2) of the Client Money Rules, a Licensed Firm, in holding Client Money, must hold it on trust for its respective Clients. Rule 5(2) requires that the title of the Client Account shall sufficiently distinguish the account from any other account containing money that belongs to the Licensed Firm.

Pooled Accounts

2.12 Rule 7 of the Client Money Rules concerns pooled Client Accounts. Pooled Client Accounts enable Licensed Firms to hold the Client Money of more than one Client in a single (pooled) Client Account.

2.13 However, if using a pooled Client Account approach, the Licensed Firm must (i) obtain clear and specific agreement from each Client beforehand and (ii) ensure that it can promptly identify individual balances due to each Client.

2.14 Pooled Client Accounts may also be useful when receiving funds from Clients prior to opening and transferring the funds into a Client’s own Client Account, rather than using the Licensed Firm’s account to receive the funds. This is particularly so where the funds received are part of an automated transfer (see Rule 8 of the Client Money Rules).

2.15 In circumstances where a Licensed Firm uses the approach of receiving Client Money into a pooled Client Account in order to transfer the funds into the Client’s own Client Account, it need not obtain specific prior agreement of the client for using the pooled Client Account, provided the funds are transferred to the Client’s own Client Account in accordance with Rule 8 of the Client Money Rules.

Payment of Client Money into Client Accounts

- 2.16 The requirements concerning the payment of Client Money into a Client Account are set out in Rule 8.
- 2.17 It should be noted that Rule 8(5)(b) provides that where Client Money is only temporarily held then the requirement to transfer Client Money into a Client Account does not apply. To be considered “temporarily held”, Client Money should be held for a maximum period of 30 days from the date of receipt.

Withdrawal of Client Money from Client Accounts

- 2.18 Rule 10 of the Client Money Rules, requires that there must be appropriate procedures in place, including authorisations, for all withdrawals from a Client Account.
- 2.19 It should be noted that 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 (see Rule 10(3)).

Client Reporting

- 2.20 Rule 12(1) of the Client Money Rules requires a Licensed Firm to provide a Client Money report to a Client on a quarterly basis or at such other intervals as are agreed in writing with the Client.
- 2.21 The Client money report must include:
- a) The client's total client money balances held by the Licensed Firm,
 - b) The amount, date, value and descriptions of each credit and debit paid into and out of the account, and
 - c) Any interest earned and charged.
- 2.22 If a Licensed Firm and a Client agree to other intervals for providing the Client Money report to the Client, such intervals should be no less than annually.

Reconciliation

- 2.23 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 the account without delay.
- 2.24 Regular reconciliations, in accordance with Rule 14(2), are an important control and can minimise losses through early detection of problems. In determining the appropriate frequency of reconciliation of a Client Account, a Licensed Firm should consider, among other things, the following factors-

- a) volume, frequency and value of transactions,
- b) the nature and complexity of the business to which the transactions relate, and
- c) risks associated with the transactions.

2.25 Subject to consideration of the above factors, the reconciliation should be carried out –

- a) at least on a monthly basis for a pooled account, and
- b) at least annually for a non-pooled account, or more frequently, subject to the volume and frequency of transactions.

Annual Review of Controls

2.26 Licensed Firms that hold Client Money must implement an independent annual review of the controls over Client Money in accordance with Rule 15. The review should include key areas such as:

- a) Adequacy of systems and controls,
- b) Review of timely reconciliations, and
- c) Review of reconciliations against client account statements.

2.27 Where an internal party at a Licensed Firm performs such a review, they should be operationally independent from the individuals or functions responsible for the functioning of the firm's Client Money control processes.

For more information, you may contact the Registrar:

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Disclaimer

This guidance is a non-binding indicative guidance and should be read together with the relevant legislation, in particular the ADGM's Commercial Licensing Regulations 2015 (Client Money) Rules 2021 and any other relevant regulations and enabling rules, which may change over time without notice. Information in this guidance is not to be deemed, considered or relied upon as legal advice and should not be treated as a substitute for a specific advice concerning any individual situation. Any action taken upon the information provided in this guidance is strictly at your own risk and the Registration Authority will not be liable for any losses and damages in connection with the use of or reliance on information provided in this guidance. The Registration Authority makes no representations as to the accuracy, completeness, correctness or suitability of any information provided in this guidance.