



CLIENT MONEY MODULE

CONSULTATION



MODULE:

CL (Client Money)

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MODULE	CL: Client Money
CHAPTER	CL-A: Introduction

CL-A.1 Purpose

Executive Summary

- CL-A.1.1 This Module presents requirements that have to be met by conventional bank licensees with regards to holding client money for which they are responsible, excluding money maintained in any on-balance sheet deposit account.
- CL-A.1.2 The Rules contained in this Module are aimed at ensuring proper protection of client money to minimise the risk of client money being used by conventional bank licensees and to prevent the commingling of client money with those of the conventional bank licensees.

Legal Basis

CL-A.1.4 This Module contains the Central Bank of Bahrain's ('CBB') Directive (as amended from time to time) on client money, with respect to conventional bank licensees, and is issued under the powers available to the CBB under Article 38 of the Central Bank of Bahrain and Financial Institutions Law 2006 ('CBB Law'). The Directive in this Module is applicable to all conventional bank licensees (including their approved persons).

- CL-A.1.5 For an explanation of the CBB's rule-making powers and different regulatory instruments, see Section UG-1.1.



MODULE	CL: Client Money
CHAPTER	CL-A: Introduction

CL-A.2 Module History

Evolution of Module

CL-A.2.1 This Module was first issued in [Month Year] by the CBB. Any material changes that have subsequently been made to this Module are annotated with the calendar quarter date in which the change was made. Chapter UG-3 provides further details on Rulebook maintenance and version control.

Summary of Changes

CL-A.2.2 The most recent changes made to this Module are detailed in the table below:

Module Ref.	Change Date	Description of Changes



MODULE	CL: Client Money
CHAPTER	CL-B: Scope of Application

CL-B.1 Scope of Application

CL-B.1.1 This Module applies to every conventional bank licensee that holds client money, excluding money maintained in any on-balance sheet deposit account.

CL-B.1.2 Client money is recognised where a conventional bank licensee:

- (a) Receives money from clients in the course of, or in connection with the funding of a specific investment project / fund or the anticipated purchase of a financial instrument (whether as a private placement or a public offering of securities or financial instruments); or
- (b) Receives money as a result of the termination or completion of a project, fund or sale of a financial instrument for the benefit of a client until it has been repaid to the concerned client



MODULE	CL: Client Money
CHAPTER	CL-B: Scope of Application

CL-B.2 Overseas Subsidiaries and Branches

CL-B.2.1 Conventional bank licensees must ensure that their branches and subsidiaries operating in foreign jurisdictions comply, at a minimum, with local client money rules (where applicable).

CL-B.2.2 Where client money rules applied by overseas branches and subsidiaries of a conventional bank licensee fall below the standards set out in this Module, the conventional bank licensee must notify the CBB of the fact.

CL-B.2.3 The CBB encourages its conventional bank licensees to apply – with respect to its overseas branches and subsidiaries – client money rules at least equivalent to those set out in this Module. Where this is not the case, then the CBB will consider any potential risk to the conventional bank licensee that may arise through adverse reputational or other consequences.

CL-B.3 Implementation

CL-B.3.1 The requirements of this Module must be complied with in full within 6 months from the date of its issuance. Failure to comply with these requirements will trigger a supervisory response, which may include formal enforcement measures, as set out in Module EN (Enforcement).



MODULE	CL: Client Money
CHAPTER	CL-1: Client Money Protection

CL-1.1 Client Money Protection Rules

Segregation of Client Money

CL-1.1.1

Except to the extent permitted by these rules, a conventional bank licensee must hold client money separate from its own money. A conventional bank licensee may only use a client's money for its own account, and/or for the account of any of its other clients if:

- (a) That client has given his express consent in writing;
- (b) The use of the client money is restricted to the terms agreed by him; and
- (c) The document in which that client's consent is requested by the conventional bank licensee gives clear information to him on:
 - (i) The obligations and responsibilities of the conventional bank licensee and/or of the clients for whose account the conventional bank licensee has been allowed to use the client's money, with respect to the use of the money (including the terms for the restitution of the money); and
 - (ii) The risks involved.

CL-1.1.2

A conventional bank licensee must communicate to its clients in writing, at a minimum, the information specified in Guidance Paragraph CL-5.1.2, regarding client money held. This information must be reported as soon as practicable, but no later than 10 business days from the initial transaction date. Subsequent statements must be provided in accordance with client notification requirements under Section CL-1.2.



MODULE	CL:	Client Money
CHAPTER	CL-1:	Client Money Protection

CL-1.1 Client Money Protection Rules (continued)

CL-1.1.3 A conventional bank licensee must hold client money in a client bank account at another bank which is not connected by way of control, directorship or ownership to the conventional bank licensee which receives the funds.

CL-1.1.4 A conventional bank licensee must not hold its own clients' money as a liability on its own balance sheet.

CL-1.1.4A A conventional bank licensee must not take deposits from projects or operating companies that it has promoted or managed. These funds must be placed with banks which are not connected, by way of control or ownership or directorship, to the concerned operating company or project.

CL-1.1.5 For the purposes of CL-1.1.2, a client bank account is an account holding client money of one or more clients in a bank account designated as such in accordance with the terms of agreement with the client(s).

CL-1.1.6 Client bank accounts may only be opened with licensed retail banks, in Bahrain or outside Bahrain, after being subject to due diligence by the conventional bank licensee.



MODULE	CL: Client Money
CHAPTER	CL-1: Client Money Protection

CL-1.1 Client Money Protection Rules (continued)

Transfer of Money to Eligible Third Parties

CL-1.1.7 A conventional bank licensee may only pay, or permit to be paid, client money into an account which is not a client bank account if the person holding the account is an eligible third party.

CL-1.1.8 Eligible third parties are recognised exchanges, clearing houses, trustees and third party intermediaries (such as brokers), that are duly authorised or licensed by the appropriate regulatory oversight body to conduct investment activities.

CL-1.1.9 A conventional bank licensee may allow an eligible third party to hold or control client money, only if the conventional bank licensee transfers the client money:

- (i) For the purpose of a transaction for a client through or with that eligible third party;
- (ii) To meet a client's obligations to provide collateral for a transaction; or where the client has been notified in writing that the client money may be transferred to the other person.

CL-1.1.10 For the purposes of Paragraph CL-1.1.7, a conventional bank licensee must assess the suitability of an eligible third party before allowing it to hold or control client money.



MODULE	CL: Client Money
CHAPTER	CL-1: Client Money Protection

CL-1.1 Client Money Protection Rules (Continued)

CL-1.1.11

A conventional bank 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 to keep it open;
- (b) Money temporarily held in the account in accordance with the mixed remittance rule stated in Paragraph CL-1.1.13; or
- (c) Interest credited to the account which exceeds the amount due to clients as interest and which has not yet been withdrawn by the conventional bank licensee.

CL-1.1.12

If it is prudent to do so to ensure that client money is protected, a conventional bank licensee may pay into a client bank account money of its own, and that money will then become client money for the purposes of the client money protection rules until the conventional bank licensee retrieves it.

CL-1.1.13

If a conventional bank licensee receives a mixed remittance (that is part client money and part other money), it must:

- (a) Pay the full sum into a client bank account; and
- (b) Withdraw the money that is not client money out of the client bank account within one business day.

CL-1.1.14

A conventional bank licensee should not hold excess client money in its client transaction accounts with intermediate brokers, settlement agencies and over the counter (OTC) counterparties; it should be held in a client bank account.

Reconciliation

CL-1.1.15

A conventional bank licensee must ensure that a system is implemented to perform reconciliations of both client bank accounts and eligible third party accounts in which client money is held. These reconciliations must be carried out on a regular basis, sufficient to ensure the accuracy of its records (but at a minimum, on a monthly basis as at the last business day of each calendar month).

CL-1.1.16

A conventional bank licensee must complete the reconciliations required under Rule CL-1.1.15 within 10 business days of the date to which the reconciliation relates.

CL-1.1.17

A conventional bank licensee must complete a reconciliation between the individual ledger balances and client bank accounts/third party balances subject to the deadlines outlined in Paragraphs CL-1.1.15 and CL-1.1.16.



MODULE	CL:	Client Money
CHAPTER	CL-1:	Client MoneyProtection

CL-1.1 Client Money Protection Rules (Continued)

CL-1.1.18

In respect of reconciliation, the conventional bank licensee must ensure that unresolved differences, shortfalls and excess balances are investigated and, where applicable, corrective action is taken as soon as is practicable.



MODULE	CL: Client Money
CHAPTER	CL-1: Client Money Protection

CL-1.2 Client Notification

CL-1.2.1

A conventional bank licensee that holds client money for a client must send a statement of all client money held by the conventional bank licensee to its client at least quarterly or as often as agreed with that client.

CL-1.2.2

The statement of client money referred to in Paragraph CL-1.2.1 must:

- (a) Identify any clients' money which has been provided as collateral;
- (b) Identify any client money which has been lent; and
- (c) Show any movement of client money clearly and consistently

CL-1.2.3

A conventional bank licensee may include the information required in Paragraph CL-1.2.1 in any periodic statement provided by the conventional bank licensee to the client, or by other separate documents, as long as all sets of information:

- (a) Are prepared in relation to the same date and period; and
- (b) Are delivered to the client within a reasonable period.



MODULE	CL: Client Money
CHAPTER	CL-1: Client Money Protection

CL-1.3 Record-keeping

CL-1.3.1

Conventional bank licensees must ensure that proper records, sufficient to show and explain the conventional bank licensee's transactions and commitments in respect of its client money, are maintained and demonstrate compliance with the provisions of this Module. These records must be retained for a period of a minimum of ten years after they were created, unless otherwise required by law.

CL-1.3.2

A conventional bank licensee that holds client money must:

- (a) Check its record-keeping and client money procedures regularly; and
- (b) Subject its record-keeping and client money procedures to an appropriate independent review (refer to Section CL-1.4).

CL-1.3.3

Detailed record-keeping requirements are contained in Module OM (Operational Risk Management) and Module FC (Financial Crime).



MODULE	CL:	Client Money
CHAPTER	CL-1:	Client Money Protection

CL-1.4 Auditor Reports

CL-1.4.1

Conventional bank licensees that hold or control client money (including where it pools money held for more than one client) must provide the CBB, within three months of the financial year end, the Agreed Upon Procedure Report produced by the external auditor, certifying the conventional bank licensees' compliance with the requirements contained in this Module.

CL-1.4.2

Conventional bank licensees are required to comply with the requirements of Section CL-1.4, effective for the period ending **31 December 2017**.



MODULE	CL:	Client Money
CHAPTER	CL-2:	Collateral

CL-2.1 General Requirements

CL-2.1.1

A conventional bank licensee must take care to establish and maintain appropriate systems and controls when it receives or holds money as collateral in connection with securing a client obligation to it.

CL-2.1.2

The purpose of this Section is to ensure that an appropriate level of protection is provided for those client money over which a client gives a conventional bank licensee the right to use, subject only to an obligation to return equivalent money to the client upon satisfaction of the client's obligation to the conventional bank licensee.



MODULE	CL: Client Money
CHAPTER	CL-2: Collateral

CL-2.2 Collateral held by Third Parties

CL-2.2.1

A conventional bank licensee may only permit a client's money to be held by a third party where:

- (a) It has reasonable grounds to believe that the third party is suitable to hold that collateral; and
- (b) The conventional bank licensee is able to demonstrate to the CBB's satisfaction the grounds upon which it considers the third party to be suitable to hold clients' collateral.

CL-2.2.2

Before a conventional bank licensee deposits client money with a third party it must notify the third party that:

- (a) The collateral does not belong to the conventional bank licensee; and
- (b) The third party is not entitled to claim any lien or right of retention or sale over the collateral except to cover the obligations of the client which gave rise to that deposit, pledge, charge or security arrangement or any charges relating to the administration or safekeeping of the collateral.



MODULE	CL: Client Money
CHAPTER	CL-2: Collateral

CL-2.3 Record-keeping

CL-2.3.1 A conventional bank licensee that receives or holds client money under an arrangement in this Chapter and which exercises its right to treat the assets as its own must ensure that it maintains adequate records to enable it to meet any future obligations including the return of equivalent assets to the client.

CL-2.3.2 Detailed record-keeping requirements are contained in Module OM (Operational Risk Management) and Module FC (Financial Crime).

Client Reports

CL-2.3.3 A conventional bank licensee which holds client money under an arrangement described in this Chapter must (at least every six months or at other intervals as agreed in writing with the client) send to the client a statement listing those collaterals and their market/fair value as at the date of reporting.

CL-2.3.4 The statement sent to the client must be prepared and despatched to the client within one calendar month of the date of reporting.



MODULE	CL: Client Money
CHAPTER	CL-3: Mandates

CL-3.1 Mandates

CL-3.1.1

This Section applies to a conventional bank licensee in respect of any written mandate from a client under which the conventional bank licensee may control a client's assets or liabilities.

Systems and Controls

CL-3.1.2

A conventional bank licensee that holds mandates of the sort described in Paragraph CL-3.1.1 must establish and maintain adequate records and internal controls in respect of its use of the mandates, which must include:

- (a) An up-to-date list of the mandates and any conditions placed by the client or the conventional bank licensee's management on their use;
- (b) A record of all transactions entered into using the mandates, and internal controls to ensure that they are within the scope of authority of the person and the conventional bank licensee entering into the transaction;
- (c) The details of the procedures for the giving and receiving of instructions under the authority; and
- (d) Where the conventional bank licensee holds a passbook or similar documents belonging to the client, internal controls, for the safeguarding (including against loss, unauthorised destruction, theft, fraud or misuse) of any passbook or similar document belonging to the client held by the conventional bank licensee.



MODULE	CL: Client Money
CHAPTER	CL-4: Third Party Related Distribution

CL-4.1 General Requirements

CL-4.1.1

The third party related distribution rules under Chapter CL-4 apply to conventional bank licensees that hold client money with a third party who becomes insolvent (“third party related distribution event”).



MODULE	CL: Client Money
CHAPTER	CL-4: Third Party Related Distribution

CL-4.2 Third Party Related Distribution

CL-4.2.1

Upon the insolvency of a third party to which client money has been transferred or is held, the conventional bank licensee continues to be accountable to the client in a fiduciary capacity. However, consistent with a fiduciary's responsibility (whether as an agent or trustee) for third parties under law, a conventional bank licensee will, generally, not be held responsible for a shortfall in the return on invested client money unless the general laws in the Kingdom of Bahrain or in the relevant jurisdiction requires otherwise.

CL-4.2.2

To comply with its duties, the conventional bank licensee must show proper care:

- (a) In the selection of a third party;
- (b) When monitoring the performance of the third party; and
- (c) When notifying clients in its terms of business the distribution rules applicable in the event of a third party distribution event.

CL-4.2.3

Following the occurrence of a third party-related distribution event in relation to a designated bank or eligible third party:

- (a) The conventional bank licensee must, as soon as is practicable, make and retain a record of each client's share of the shortfall and must promptly notify the amount of the shortfall to the affected clients (except where the conventional bank licensee chooses to make good the shortfall);
- (b) Unless the conventional bank licensee chooses to make good any shortfalls in the client money balances held (or which should have been held) in the client bank accounts, or third party accounts held by a conventional bank licensee with the relevant designated bank or eligible third party, such shortfalls shall be borne by clients, in proportion to the respective value of their client money balances; and
- (c) Client money received after the third party-related distribution event:
 - (i) Must not be transferred to the designated bank or eligible third party which has suffered the third party-related distribution event unless this is on the specific instructions of the client (given after the occurrence of the third party-related distribution event) in order to settle an obligation of that client to that designated bank or eligible third party; and



MODULE	CL: Client Money
CHAPTER	CL-4: Third Party Related Distribution

CL-4.2 Third Party Related Distribution (continued)

- (ii) Must, subject to (i), be placed in a separate client bank account that has been opened with a different designated bank after the third party related distribution event has occurred.



MODULE	CL: Client Money
CHAPTER	CL-5: Appendix

CL-5.1 Appendix

CL-5.1.1 The minimum information that should be assessed by a conventional bank licensee to determine the suitability of an eligible third party should include but not be limited to the following information:

- (a) The eligible third party's credit rating, capital and financial resources;
- (b) The regulatory and insolvency regimes of the jurisdiction in which the eligible third party is located;
- (c) The eligible third party's reputation;
- (d) Its regulatory status and history; and
- (e) The other members of the eligible third party's group and their activities.

CL-5.1.2 The minimum information that should be notified by the conventional bank licensee to its client in respect of its holdings of that client's money includes but is not limited to the following:

- (a) The basis and terms governing the way in which the client money will be held;
- (b) That the client is subject to the protection conferred by the client money protection rules and as a consequence:
 - (i) The client money will be held separately from assets belonging to the conventional bank licensee; and
 - (ii) In the event of a conventional bank licensee's insolvency, winding-up or other similar event, the client's money will be subject to the Laws of the Kingdom of Bahrain.
- (c) Whether interest is payable to the client and, if so, the terms and frequency of such payments;
- (d) That, notwithstanding that the client money will benefit from the protections conferred by the client money protection rules, the client will still be taking unsecured credit risk on any bank or third party with whom the conventional bank licensee places the client money that it holds;
- (e) If applicable, that the client money may be held in a jurisdiction outside the remit of the CBB and that the market practices, insolvency and legal regimes applicable in that jurisdiction may differ from the regime applicable in the CBB;
- (f) If applicable, that the conventional bank licensee holds or intends to hold the client money in a client bank account with a designated bank or in a third party account with an eligible third party which is in the same group as the conventional bank licensee and the identity of the designated bank or eligible third party concerned;
- (g) If applicable, details about how any client money arising out of Islamic financial business is to be held; and
- (h) Details of any claims or set offs which the conventional bank licensee may have in client money held on behalf of the client in satisfaction of a default by the client or otherwise, and any rights which the conventional bank licensee may have to closeout or liquidate contracts or positions in respect of any of the client money, without the client's prior instruction or consent.