Revised Client Assets Regulations - What the changes mean and how they affect you

The Central Bank of Ireland ("CBI") has published the Client Asset Regulations (for Investment Firms)/ Investor Money Regulations (for Fund Service Providers), effective 1 October 2015 and 1 April 2016 respectively.

Stages of IMR / CAR implementation

Consultation

August 2013

CBI issued draft regulations and Consultation Process 71 ("CP 71")

October 2013

CBI closed the CP 71 consultation process. Indications from industry feedback that regulations would be split:

1. Stockbroking / Investment Firms ("IFs")
2. Fund Service Providers ("FSPs")

Application

October 2015

"CAR"

Client Assets Regulations ("CAR") published for IFs on 30 March 2015, effective on 1 October 2015

April 2016

Investor Money Regulations ("IMR") published for FSPs on 30 March 2015, effective 1 April 2016

Client Asset protection is a regulatory priority for the CBI and will remain on the CBI's supervisory and enforcement agenda due to the serious consequences that deficiencies could have for clients and counterparties as well as reputational damage to the Irish financial market.

Client Asset Requirements are changing and firms have to take steps to ensure they comply with the new requirements. The new requirements bring Fund Service Providers into scope for the first time, others will have to assess how their current framework must be modified.

What are the key changes?

The following are the key changes and additions to the Client Asset Regulations:

- For the first time **Fund Service Providers** will be subject to "Investor Money Regulations" in respect of client funds held in **collection accounts** (i.e. bank accounts that are used to receive subscription monies and remit redemption proceeds).
- Firms will be required to appoint an individual as **Head of Client Asset Oversight (HCAO) / Head of Investor Money Oversight (HIMO)** which will be a Pre-approved Controlled Function, appointed under Part 3 of the Central Bank Reform Act 2010.
- Firms will be required to create, document and maintain a **Client Asset Management Plan (CAMP) / Investor Money Management Plan (IMMP)** in order to safeguard client assets. The CAMP must be in place by 1 January 2016 for IFs and 1 July 2016 for FSPs.
- Both IFs and FSPs will have to arrange for their external auditor to conduct a **Client Asset Examination ("CAE")** and an **Investor Money Examination** ('IME") respective and to prepare an annual Assurance Report (which must also be submitted to the CBI, within 4 months of each year-end) providing assurance on whether:
  - the firm has maintained processes and systems adequate to meet the requirements of these Regulations throughout the period of the examination
  - the firm was in compliance with the CAR (or Investor Money) Regulations as at the period end date
  - any matter has come to the attention of the auditor to suggest that the firm has acted in a manner which is not consistent with that documented within the CAMP which has been in operation throughout the period to which the examination relates
  - changes made to the CAMP since the date of the last report have been drafted in sufficient detail to meet the requirements of the CAR (or IM) Regulations capturing the risks faced by the entity in holding client assets given the nature and complexity of the entity under examination up to the date of the current report (for second and subsequent CAMP reviews)
- Both sets of Regulations do not permit a firm to maintain any asset other than client assets in a client asset account e.g. firm's own funds in the form of a 'Buffer' account.
- An Investment Firm holding client assets must provide its retail clients, a simple "plain English" standalone document which sets out an explanation of the Regulations and an explanation of what constitutes client assets, i.e. **Client Asset Key information Document (CAKID)**.

Key principles and features of the Client Asset / Investor Money Regulations

Segregation	A firm should hold the client assets separate from the firm's own assets and maintain accounting separation between these assets
Designation & Registration	A firm should ensure all client assets are clearly identified in its internal records and are identifiable from a firm's own assets
Reconciliation	A firm should keep accurate books and records as are necessary to enable it, at any time and without any delay, to provide an accurate record of the client assets held for each client and the total held in the client asset account.
Daily Calculation	Each business day the firm should reconcile its client assets bank account to the amount of money it should be holding for its clients (its client money requirements).
Client Disclosure and Consent (Investment Firms only)	A firm should provide information to its clients regarding how and where their client assets are held and the resulting risks thereof. A firm should also inform its clients if their assets are operating with the client asset protection regime.
Risk Management	A firm should ensure it has and applies systems and controls that are appropriate to identify risks in relation to client assets and should put in place mitigations to counteract these risks.
Client Assets/ Investor Money Examination	A firm should engage its external auditor to report on the firm's safeguarding of client assets.

What does it mean for your business?

- Compliance with the client money rules is front and centre of **CBI priorities** – protection of client assets is high on the agenda of both Markets Supervision and Enforcement.
- **Senior management will be held fully accountable** for the client asset management processes put in place. Can you clearly articulate the extent to which CAR / IMR applies to your firm and the governance arrangements in place?
- **Client money identification** - Can you identify the types of client monies that arise in your business?
  - Bank accounts, financial instruments
  - Client entitlements (dividends / distributions)
  - Due and payable to the firm (deductions (charges, fees etc) and management fees)
  - Interest (interest on client money / terms deposits)
  - Commission rebates
  - Mixed remittances (mixture of client and firm monies)
- **Use of collection accounts and application of the IM Regulations**
  - Some FSPs are currently moving away from "collection accounts" to a "fund asset" environment which may not fall within the scope of CAR / IMR. This is an emerging area that will need to be considered based on the facts and circumstances as they apply to each FSP.

How can we help?

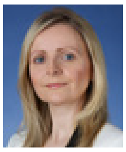
KPMG can assist firms in meeting their obligations under the Client Asset / Investor Money Regulations in any of the following:

- Rapid diagnostic assessment of capabilities in line with CAR
- Technical legislation assessment, impact & gap analysis
- Target Operating Models design & implementation of risk framework (including systems, processes and procedures) to ensure adherence to the CAR
- Assistance with CAMP / IMMP Development and / or Review
- Investor Disclosures and CAKID implementation
- CAR / IMR training, Head of Client Asset (Investor Money) Oversight Training & Board training
- Undertake Annual Client Assets / Investor Money Examination

Should you wish to discuss any aspect of these new regulations and how they will impact your business please get in touch with your usual contact at KPMG or any of those listed below.

Johnny Lew
Partner, Financial Services

t: +353 1 410 1483
e: jonathan.lew@kpmg.ie



Gillian Kelly
Director, Risk Consulting

t: +353 1 410 1120
e: gillian.kelly@kpmg.ie

Michael Daughton
Partner, Risk Consulting

t: +353 1 410 2965
e: michael.daughton@kpmg.ie

Joseph Ryan
Director, Financial Services

t: +353 1 700 4275
e: joseph.ryan@kpmg.ie

Frank Gannon
Partner, Financial Services

t: +353 1 410 1552
e: frank.gannon@kpmg.ie

Paul O'Connor
Director, Regulatory Advisory

t: +353 1 700 4038
e: paul.oconnor@kpmg.ie

kpmg.ie

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