



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

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Investor Money Regulations Questions and Answers

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Investor Money Regulations Questions and Answers

This Questions and Answers (Q&A) document sets out answers to queries likely to arise in relation to the implementation of the Investor Money Regulations (IMR). It is published in order to assist in limiting uncertainty until definitive positions and practices are finalised. It is not relevant to assessing compliance with regulatory requirements. The document will be published on the website of the Central Bank of Ireland ('the Central Bank') and will be updated there from time to time. The Central Bank reserves the right to alter its approach to any matter covered in this Q&A at any time.

The IMR refers to the Investor Money Regulations (S.I. No 105 of 2015) issued pursuant to Section 48 of the Central Bank (Supervision and Enforcement) Act 2013. The IMR applies to Fund Service Providers ('FSP'), as defined in the IMR, with effect from 1 April 2016 with respect to holding investor money. In conjunction with the IMR, the Central Bank has published [Guidance on Investor Money Regulations for Fund Service Providers](#) ('Guidance'), which may be referred to in this document. This Q&A document should be read in conjunction with the IMR and the Guidance.

General Questions/Applicability

S0-001

Q. Will the Client Asset Specialist Team ('CAST') in the Securities & Markets Supervision Division of the Central Bank be the primary supervisors of the IMR?

A. Yes. CAST will have primary responsibility for supervising FSP arrangements to comply with the IMR. CAST will work closely with the prudential supervisors of FSPs who will remain the primary point of contact for FSPs.

S0-002

Q. I am a FSP that only holds investor money in limited or exceptional circumstances. Am I required to produce an Investor Money Management Plan (IMMP) and appoint a Head of Investor Money Oversight (HIMO)?

A. Yes. Where a FSP holds investor money in circumstances where the IMR applies, the FSP must comply with the IMR, including producing an IMMP and appointing a HIMO.

S0-003

Q. Will the IMR apply to FSPs that provide services to non-EU Investment Funds?

A. Yes. The IMR defines an Investment Fund as either a UCITS (within the meaning of Article 1(2) of Directive 2009/65/EC) or an AIF (within the meaning of Article 4(1)(a) of Directive 2011/61/EU). This includes a non-EU AIF.

S0-004

Q. What is meant by 'working day' as referred to in the IMR?

A. 'Working day' is defined in the Interpretation Act 2005 and means "a day which is not a Saturday, Sunday or public holiday". The definitions in the Interpretation Act 2005 should be referred to directly where those definitions are being relied upon.

Segregation

S3-001

Q. In cases of redemptions where investor money cannot be securely paid out to a safely identifiable investor (e.g., unclaimed investor money or awaiting outstanding documentation from the investor, etc.), is a FSP permitted to move this money to a separate account held by the FSP which is also designated as a collection account?

A. Yes. Once the investor money is held in a collection account in accordance with the IMR, there is no restriction on a FSP operating a number of different collection accounts.

S3-002

Q. Should unclaimed investor money be held in collection accounts in accordance with the IMR for an extended or indefinite period of time?

A. Yes. All unclaimed investor money should be held in collection accounts established in accordance with the IMR. This money should be held until claimed by the investor.

S3-003

Q. Do retrocessions/rebates withheld by a FSP fall within the definition of 'investor money'?

A. Yes. If the investor is beneficially entitled to the retrocessions/rebates, the money should be treated as investor money.

Risk Management

S7-001

Q. Can the Head of Investor Money Oversight function be outsourced to a third party?

A. No. The Head of Investor Money Oversight must be a role held within the FSP in accordance with the IMR even if certain operational obligations are outsourced to a third party where this outsourcing is permitted under the IMR. The Guidance should also be referred to in complying with this obligation.

S7-002

Q. Will a Head of Transfer Agency within a FSP be regarded as suitably independent of day to day processes to assume the role as Head of Investor Money Oversight?

A. Each FSP is obliged to assess the independence of the proposed HIMO taking into account the size and complexity of the FSP. The Board should ensure that the proposed HIMO can demonstrate that he/she is free from any conflicts of interest in respect of the role. The proposed HIMO should also be sufficiently removed from the performance of day to day operational functions relating to the administration of investor money. There may be circumstances in which the FSP forms the view that the Head of Transfer Agency meets these criteria and the Board's considerations and decision in that regard should be documented. Where the Head of Transfer Agency is appointed as HIMO, the FSP should keep the matter under regular review as the FSP must ensure that the HIMO continues to meet the criteria outlined above on a continuing basis.

S7-003

Q. Does the Central Bank intend to produce a pro-forma IMMP template?

A. No. An IMMP should be developed by the FSP and tailored to the FSP's business model and complexity. For information on what should be included in the IMMP, please see Section 7 of the Guidance.

Investor Money Examination**S8-001**

Q. Can assurance work completed for a separate audit engagement be relied upon by the auditor in completing the Investor Money Examination?

A. It is a matter for each auditor to satisfy itself as to the assurance work necessary for it to complete and provide the reports required under the IMR. A separate report must be submitted to Central Bank in relation to the Investor Money Examination.

T +353 1 224 6000 F +353 1 671 6561 www.centralbank.ie fundspolicy@centralbank.ie



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Bosca PO 559, Sráid an Dáma, Baile Átha Cliath 2, Éire
PO. Box No 559, Dame Street, Dublin 2, Ireland