



16 October 2012

Our ref: ICAEW Rep 154/12

Your ref: CP 12/22 Part I

Emad Aladhah  
Client Assets and Wholesale Conduct  
Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

Via email: [cp12\\_22@fsa.gov.uk](mailto:cp12_22@fsa.gov.uk)

Dear Emad,

### **ICAEW Response to CP 12/22 Part I**

ICAEW welcomes the opportunity to comment on the Consultation Paper (CP) 12/22 *Client assets regime: EMIR, multiple pools and the wider review (Part I: Changes to CASS required by EMIR)* published by the Financial Services Authority (FSA) on 6 September 2012, a copy of which is available from this link. [www.fsa.gov.uk/static/pubs/cp/cp12-22.pdf](http://www.fsa.gov.uk/static/pubs/cp/cp12-22.pdf)

ICAEW shall also be responding to parts II and III of the above CP in due course.

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With regards to the aforementioned CP, we do not disagree with the changes proposed by the FSA to ensure the client assets regime is compliant with EMIR. We generally support changes which will

ensure maximum returns to clients upon a clearing firm default. We would encourage the FSA to ensure that rule changes are drafted with clarity, congruent with the improvements being made to the client asset rules in other areas, as consulted on in CP 12/15, to which we also responded.

**Q1: Do you agree with the proposed changes to the distribution rules to permit porting? Do you agree with the treatment of balances returned to the clearing member for the account of its clients? If not, please explain why.**

We do not disagree with the proposed changes to the distribution rules which would permit porting. We do not disagree with the treatment of balances returned to the clearing member for the account of its clients.

**Q2: Do you agree with our proposed amendments to the client money rules about discharge of client money responsibility, and amending the obligations for notification of trust (CASS 7.8)?**

We do not disagree with the proposed amendments to the client money rules regarding discharge of client money responsibility nor amendments to the obligations for notification of trust (CASS 7.8).

Although we do not disagree with the proposed amendments in principal, we understand that there will be legal, operational and practical hurdles to overcome which need to be addressed if these amendments are to be implemented appropriately. Particularly there are issues regarding the requirements of CCPs outside the EMIR jurisdiction and the application of insolvency law over porting.

Please do not hesitate to contact me using the details below should you wish to further discuss any elements of our response.

Yours sincerely

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