



Guernsey Financial  
Services Commission

## Client Money – Fiduciary

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*Thematic Review 2024*



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## Executive Summary

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During 2024, the Commission undertook a thematic review to assess the effectiveness of controls over Client Money at investment and fiduciary licensees. This report sets out the findings for primary fiduciary licensees. The Commission was pleased to note that there was a 100% response rate to the Thematic Review.

The Commission was generally satisfied with Client Money safeguarding arrangements, with a range of good practice observed.

### What did the Commission find?

#### A) Licensees appropriately segregate and reconcile Client Money

Licensees segregate Client Money from their own money into Client Bank Accounts and Client Entity Bank Accounts. Where pooled Client Bank Accounts are used, strict controls are in place with appropriate labelling to ensure clear designation.

The Fiduciary Rules require monthly reconciliations for Client Bank Accounts and annual reconciliations for Client Entity Bank Accounts, with other frequencies of reconciliation based on the nature and frequency of transactions that take place in those accounts. The Commission found that reconciliation processes were carried out in line with all of the requirements in the Fiduciary Rules.

#### B) Overall, licensees demonstrated a robust control environment to ensure the safety of Client Money

The Commission reviewed policies and procedures related to Client Money, noting that detailed checklists and clear signposting helped mitigate risks and reduce errors. Training on these policies varied in frequency and method. Some firms rely heavily on experienced staff which presents a key person risk if detailed and accessible policies and procedures are not embedded within the business.

An annual independent review of controls over Client Bank Accounts is required under the Fiduciary Rules. The majority of licensees used their Compliance Monitoring Programme (“CMP”) for this purpose, with some using either an internal audit function or an independent third party. The Commission stresses the importance of ensuring that such testing is scoped correctly against the requirements of the Fiduciary Rules.

#### C) Not all licensees understood the classification of, and difference between, Client Bank Accounts and Client Entity Bank Accounts

Whilst clear that licensees understand the concept of Client Money, and treat it accordingly, there appears to be some misinterpretation around the definitions of Client Bank Account and Client Entity Bank Account per the Fiduciary Rules (see Glossary for definitions).

This distinction is crucial due to the higher operational risks associated with pooled Client Bank Accounts given the increased risk of co-mingling.

#### D) Licensees should take care to prevent overdrawn Client Bank Accounts

Some licensees reported instances of Client Bank Accounts going overdrawn in the past 12 months, mainly due to bank transaction charges, service charges, and transaction timing issues. While most licensees manage bank charges well, some were unclear on quantum of transaction charges and when quarterly or annual services charges would be applied. Licensees generally rectified overdrawn accounts promptly and not to the detriment of the Client.

There is no evidence of widespread poor practice; however, licensees should ensure an adequate level of oversight to reduce the risk of overdrawn Client Bank Accounts, such as making sure that there is an appropriate level of communication with their banking providers.

#### **E) Client Money is mostly held at Approved Banks, but with some exceptions**

Licensees adequately scrutinise and monitor the banks at which they hold Client Money. Most accounts for Client Money are held at banks in the Bailiwick. Licensees maintain an internal Approved Bank list, evaluating factors such as credit rating and financial stability, and monitoring those providers for adverse media.

Some licensees are highly reliant on one bank, which is a source of operational risk. Those licensees have, however, adequately considered the risk and have put in place mitigation which includes maintaining open and proactive relationships with their banking providers.

The Commission found that the vast majority of licensees hold Client Money with Approved Banks, as required by the Fiduciary Rules. However, some licensees reported holding Client Money at other institutions that do not meet the Approved Bank criteria without having received the necessary modification to, or derogation from, the Fiduciary Rules. If a licensee wishes to hold Client Money outside an Approved Bank for a particular reason, it should submit a request for modification of the Fiduciary Rules, which should be appropriately detailed and contain sufficient rationale.

## Background

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Thematic reviews are used by the Commission as a tool to gather information on specific aspects of the Bailiwick's financial services sector. The review also provide a means by which the Commission can share observations with industry on good practice and areas for improvement and engage with a wide selection of regulated entities.

Client Money was selected as the topic for the 2024 Thematic Review in order to ascertain whether or not Client Money held by Guernsey-licensed entities is safe. Licensees can take steps to protect Client Money by “ring-fencing” so as to:

- Prohibit firms from using Client Money to finance their business;
- Prohibit the use of one Client's funds to finance another Client; and
- Assist with the return of Client Money to the Client in the event of bank failure.

Licensees must ensure Client Money, both at receipt stage and pending distribution or onwards transfer, is safeguarded and appropriately accounted for. Failing to do so, especially at the receipt stage, can cause an unwanted knock-on effect by, for example, affecting the accuracy of accounting records.

It is important to ensure that even when a licensee ceases to operate, Client Money is safeguarded and kept separately from the licensee's own.

Protecting consumers and the reputation of the Bailiwick are key for the Commission, and fundamental to this is the protection of Client Money.

### Current legislation and international standards

The Group of International Finance Centre Supervisors (“GIFCS”) produced a technical paper in 2017 entitled “Application of client money standards to TCSPs [Trust and Corporate Services Providers]”, with the following recommendations:

- **Protection provisions – “ring-fencing”:** Regulations should secure the ring fencing of client money. Regulations should provide that:
  - Client money is defined;
  - Client money is held in bank accounts which are segregated from the TCSP's own bank accounts;
  - Client money accounts are clearly labelled as such;
  - Banks which hold client money accounts acknowledge in writing to the TCSP that client money is not an asset of the TCSP and is not subject to claims in the event of insolvency of the TCSP;
  - Where money due to different clients is in the same client money account (a “pooled account”), money due to one customer is not used to finance another customer;
  - Client money accounts do not to become overdrawn.
- **Controls and fraud prevention:** Regulations should address TCSPs' controls and monitoring of client money. Regulations should provide that:-
  - Proper records are kept to show accurately the position of all client money held;
  - Client money is accounted for promptly, typically on the day of receipt or the next working day;
  - Reconciliation is carried out between the bank balance and the TCSP's records at a specified frequency; and
  - Where client money is pooled, the reconciliation must identify how much money stands to the credit of each customer.

- A TCSP has processes in place to ensure openness and transparency relating to the withdrawal of monies from a client money account for or towards payment of fees payable to the TCSP. Terms and conditions between a customer and TCSP should include the basis of calculating the fees or charges payable to the TCSP. Also, client money should not be withdrawn from a client money account unless the precise amount has been agreed with the customer, or a customer has been notified in writing and the customer has not disagreed and an appropriate amount of time has elapsed since the date of delivery of the notification.

These standards are incorporated into the Commission’s regulatory framework through The Fiduciary Rules and Guidance, 2021 (the “Fiduciary Rules”).

## Scope

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The Commission sent questionnaires to all primary fiduciary licensees. Licensees responded based on the 12-month period immediately preceding the issuance of the questionnaire (“the reporting period”).

Banking relationship data collected from fiduciary licensees in 2023 has been thoroughly analysed, and some of the relevant insights gained from this analysis have been integrated into the current report.

## Approach

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The Thematic Review consisted of five stages:

1. The Commission considered international standards relevant to the safeguarding of Client Money; specifically the GIFCS report referenced in the Background section, as well as the Commission’s rules in respect of Client Money.
2. An initial information gathering stage. Questionnaires were sent to the relevant licensees (as listed above in the Scope).
3. A desk-based review of the information provided in response to the initial requests was undertaken, which was used to inform discussions during the interview stage.
4. A representative sample of licensees were invited to attend a short interview at the Commission’s offices.
5. The licensees interviewed provided their policies and procedures relating to Client Money, as well as any relevant CMP tests, which were analysed by the Commission.

## Analysis

Of those firms included in the Thematic Review, the following held Client Money:

	% of total
Number of licensees that operate Client Money accounts	89%

Those licensees who responded as not operating Client Money accounts carry out work such as corporate secretarial services, or operate other business models that do not necessitate them holding Client Money.

Of the respondents who reported operating Client Money accounts, 70% operated Client Bank Accounts and 95% operated Client Entity Bank Accounts. On average, licensees operated 131 Client Bank Accounts and 280 Client Entity Bank Accounts.

### 1) Identification of account types

Whilst it is clear that licensees understand the concept of Client Money, and treat it accordingly, there appears to be some misinterpretation around the definitions of Client Bank Account and Client Entity Bank Account per the Fiduciary Rules.

Based on the definitions at 6.1 of the Fiduciary Rules, Client Bank Accounts are accounts which are in the licensee's name and controlled by it, for one or more clients. Examples are designated trustee accounts (e.g. bank accounts which include "as trustee of") and pooled client accounts in the firm's name. Client Bank Accounts are therefore not limited to just pooled accounts. Whereas, a Client Entity Bank Account is a bank account that is under the name of a client or client's company (not in the licensee's name), but are controlled by the licensee. Figure 1 is a diagrammatical representation of the difference.

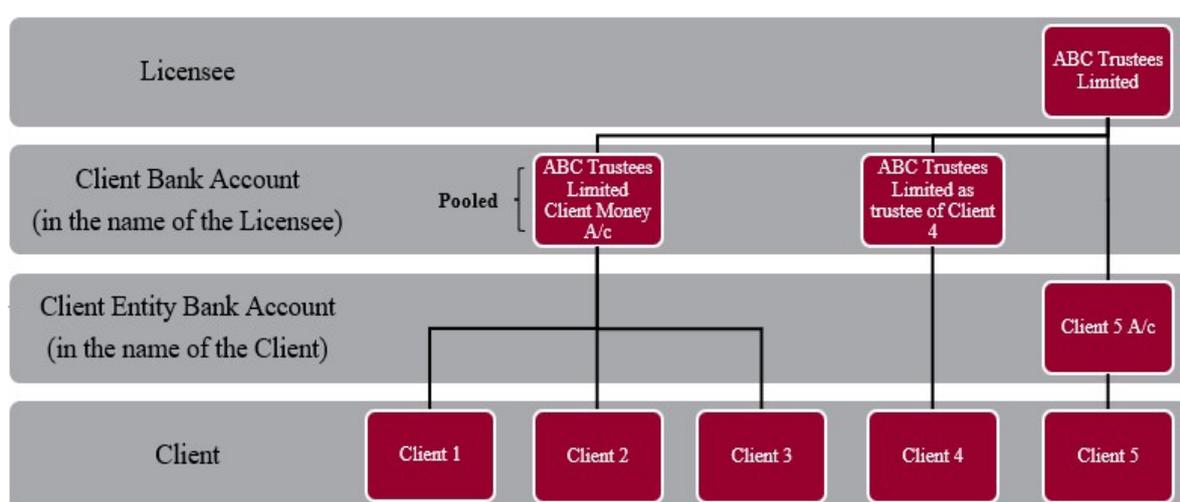


Figure 1 – Examples of Client Bank Accounts and Client Entity Bank Accounts.

This distinction is important due to the additional operational risks present with pooled Client Bank Accounts; namely, the fact that the account is legally in the name of a licensed fiduciary, and that multiple clients' funds are present in a pooled Client Bank Account.

The Commission found that 97% of licensees who operated Client Bank Accounts reported that these were appropriately titled, in line with the expectations of the Fiduciary Rules. The Commission will be following up with the 3% of licensees who reported otherwise to ensure compliance with the Fiduciary Rules.

## **2) Segregation and reconciliation of Client Money**

### **Pooled**

Licensees typically pool Client Money in one of two scenarios; either if a structure has been liquidated and the associated bank accounts has been closed before funds are able to be paid/distributed out to a third party/beneficiary, or if a licensee receives initial settled funds before either a Client Bank Account or Client Entity Bank Account has been established for that particular Client relationship.

The Commission found that the operation of pooled Client Bank Accounts was tightly controlled - usually requiring sign off from a member of the board in conjunction with either a member of the compliance team or the finance director before funds could be received - and that they were rarely used.

It was also clear that banks operating pooled accounts for licensees required prior notification of remittance, as well as a detailed rationale as to why the account was being used; in addition, certain banks were reported to require an internal sign off before any funds could be accepted.



### **GOOD PRACTICE:**

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One of the firms interviewed described in detail how its pooled Client Bank Account can only be operated by its finance team, independent of the client administration function, following authorisation from the director of risk and compliance, or in their absence, the managing director, as well as separate approval from its banking provider.

### **Non-pooled**

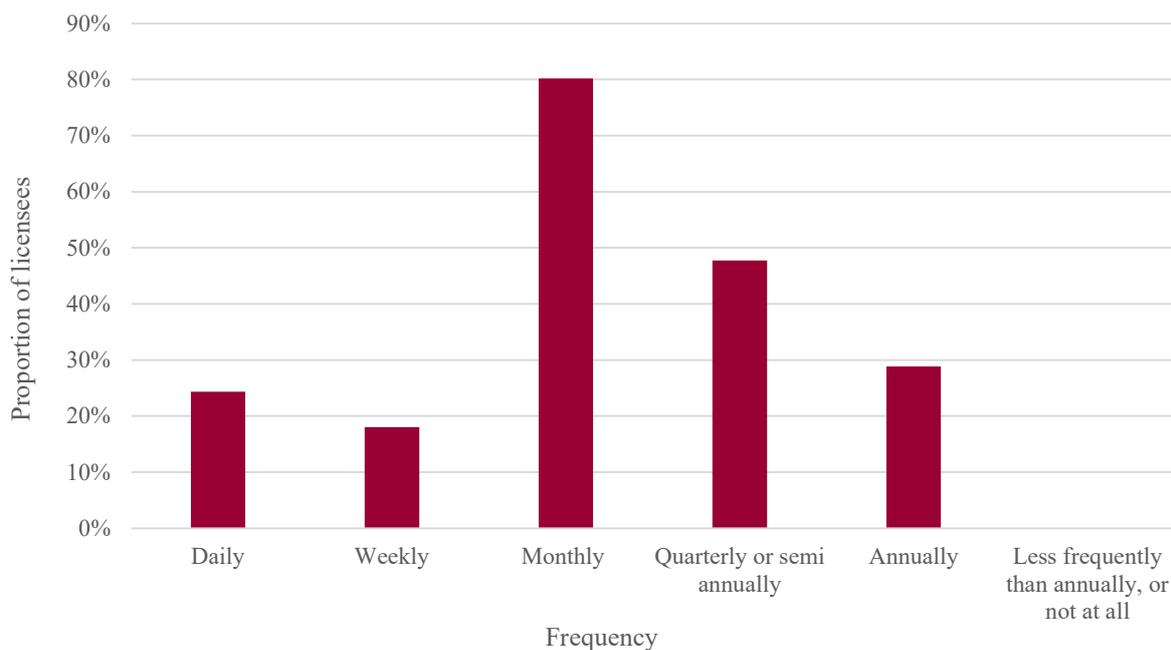
Licensees establish specific Client Bank Accounts and/or Client Entity Bank Accounts for each trust and/or legal entity that the licensee administers.

The establishment of such accounts allows the licensee to easily segregate and identify Client Money belonging to a particular Client relationship in order to keep it separate from both the licensee's own money and other Client Money.

The Commission did not observe any issues in respect of licensees segregating and appropriately reconciling non-pooled Client Bank Accounts and Client Entity Bank Accounts.

### **Reconciliation**

The Fiduciary Rules contain guidance noting that pooled Client Bank Accounts should be reconciled on at least a monthly basis, with all other Client Bank Accounts and Client Entity Bank Accounts reconciled on at least an annual basis. The frequency of reconciliations should also be commensurate with the nature and frequency of transactions on each account.



*Figure 2 – Frequency of Client Money account reconciliation by licensees. Licensees were able to select multiple options on the questionnaire.*

The Commission wishes to draw licensees’ attention to the guidance note at 2.3 of the Fiduciary Rules stating that licensees should not receive or retain any commission or benefits from the holding of Client Money accounts, and that any benefits received must be passed on to clients. During the course of the Thematic Review, the Commission did not observe that licensees were receiving benefits from holding Client Money.

The Commission observed from both the questionnaire responses and the interviews that licensees are meeting the requirements of the Fiduciary Rules; licensees were able to communicate how more active accounts were monitored and reconciled more frequently, which was also evident in the policies and procedures reviewed. This is important to ensure that accounting records are accurate and licensees are meeting their fiduciary duty in this respect.

### **3) Treatment of overdrawn accounts**

Licensees reported instances of Client Bank Accounts going overdrawn during the reporting period. The most common rationales provided were in relation to bank transaction charges, bank account service charges and transaction timing issues e.g. where time sensitive transactions needed to be made from a Client Bank Account and the incoming funds had not been received. In that scenario, licensees described liaising with the relevant bank to ensure that either a temporary overdraft could be arranged, or that the bank was aware that the position would be rectified without delay.

Bank charges were the most common rationale provided by licensees in respect of overdrawn accounts. The Commission heard that banks would sometimes take fees from a related account or sub-account that was not funded, therefore requiring the licensee to transfer or convert funds from a different account or currency to avoid an overdrawn position.

For other charges, such as transaction charges, most licensees demonstrated a clear awareness, ensuring that accounts were sufficiently funded in order to cover any charges applied. There were however some instances where licensees were unclear in respect of specific charges levied by its banking provider.

Licenses should be cognisant of transaction charges and should make funding arrangements accordingly to ensure that accounts do not inadvertently go overdrawn.

It was clear from the Commission's conversations with licenses that proactive relationships and clear lines of communication with banking providers help to ensure that advance notice of charges are actioned and funding arrangements made accordingly.

In the vast majority of cases, licenses described that any instances of overdrawn accounts were rectified as soon as was practicable, and never to the detriment of the Client. It should also be noted that on occasions where individual accounts went overdrawn, it was described to the Commission that those accounts were often part of a wider Client group, or account group, where the net position remained "positive" and other accounts within the Client group were able to be used to rectify the position. The quantum that the amount individual accounts went overdrawn by was also often minimal.



#### **AREA TO CONSIDER:**

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Licenses should ensure that, wherever possible, Client Bank Accounts do not go overdrawn. It is important that licenses maintain appropriate levels of communication with their banking provider(s) in order to understand quantum of transaction charges as well as the withdrawal dates and quantum of bank account service charges that might be taken.

From what the Commission understands, there is no evidence to suggest that there is widespread poor practice across industry which is ultimately detrimental to Clients. There is, however, enough information to suggest that licenses could exercise more careful oversight over transactions and potential charges to prevent instances of accounts going overdrawn.

#### **4) Sufficient controls – policies and procedures**

The Commission reviewed the relevant policies and procedures provided by those firms interviewed regarding Client Money.

During the Commission's review, there were examples of policies accompanied by thorough and detailed step-by-step checklists, which avoid ambiguity and ensure that potential risks are mitigated effectively.

There were also examples of where licenses had incorporated clear signposting from policies to the relevant procedures, thus ensuring the end user is clear on which procedure to use in which set of circumstances, reducing the risk of errors. The Commission identified that those firms who were interviewed that had automated processes reported fewer breaches than those with manual processes.

In some cases, the Commission also found clear references to the definitions of Client Bank Account and Client Entity Bank Account contained within policies and procedures linked back to the Fiduciary Rules, thus embedding awareness amongst staff around the difference between those types of accounts.

For the most part, these policies and procedures mirrored the expectation of the Fiduciary Rules; there was however a variation in the level of detail, which was usually commensurate with the nature and scale of the licensee in question i.e. some smaller firms with simpler business models provided more basic documents merely summarising and outlining the Commission's expectations. The general expectation of the Commission is that licenses' policies, procedures and controls are adequate when aligned with the nature, scale and complexity of the business.

## 5) Sufficient controls – embedding

There was a range of responses from the firms interviewed regarding the embedding of policies and procedures, mostly focussed around training. The frequency of this training varied from annual to ad-hoc, and in terms of method of delivery from formal sessions to more team-based discussion. The extent of the training was informed either by breaches being identified through the normal course of business, or via CMP tests identifying areas for focus.

There were also references made to changes in policies and procedures being communicated to staff via circular email, or a central policies hub on the firm's intranet, and staff being required to confirm that they had read and understood those updated documents.

The Commission observed that some licensees were somewhat over reliant on staff retention to ensure that a particular process was followed, through those licensees emphasising the experience of a particular team, or one of two members of the relevant team. It is vital that licensees ensure that this risk is mitigated by ensuring that they have sufficiently detailed policies and procedures, that are easily accessible and understandable to all relevant staff

## 6) Audit and CMP

Rule 2.5.9 of the Fiduciary Rules states:

*“A licensed fiduciary must implement an annual independent review of the controls over Fiduciary Client Money. The review must...be performed by an appropriate, independent person who may be an internal or external party”.*

There was a diverse set of responses from the firms interviewed, ranging from considering their CMP sufficient for purposes of the independent review, a separate individual or function outside of the CMP process undertaking a bespoke review which may or may not include internal audit, or by engaging with an external party.

CMP testing was observed to be on at least an annual basis; of those firms that were interviewed which submitted their CMP tests specifically in relation to Client Money, the Commission observed those tests to be appropriately mapped to the requirements of the Fiduciary Rules and appropriately constructed to effectively test the compliance of the licensee with the Fiduciary Rules.



### AREA TO CONSIDER:

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The requirement for an annual independent review of the controls over Fiduciary Client Money is only necessary in respect of Client Bank Accounts – it was observed by the Commission that one firm who used an external consultant received a report only analysing the controls in respect of Client Entity Bank Accounts. The Commission urges licensees to ensure that the annual independent review is scoped correctly against the requirements of the Fiduciary Rules.

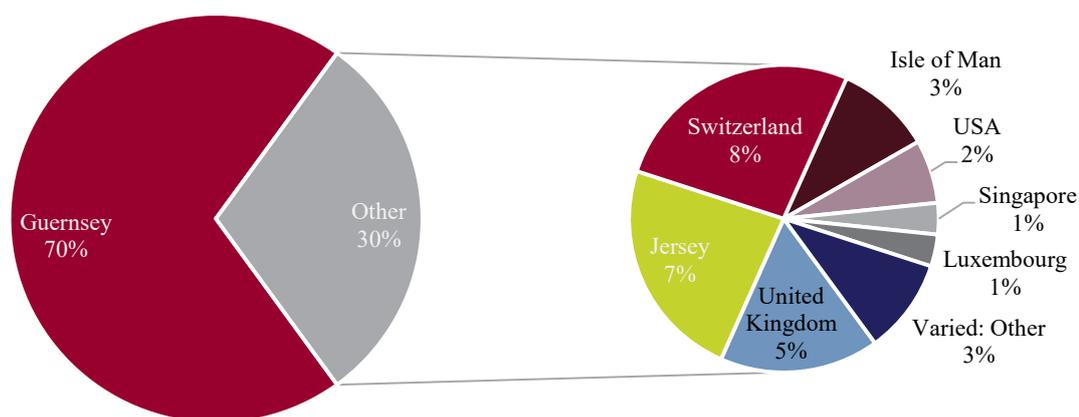
The importance of independent testing, whether internal or external, is to ensure a licensee's control framework is effective and fit for purpose. The Commission generally found this to be the case from the examples analysed, but reminds all licensees of the importance of an appropriate testing function.

## 7) Approved Banks and due diligence on banking relationships

Rule 2.5.4(1) of the Fiduciary Rules states that Client Money must be held in a Client Bank Account or Client Entity Bank Account, which in turn should be held at an Approved Bank.

The Fiduciary Rules' definition of Approved Bank covers banks in the Bailiwick, Jersey, the Isle of Man, UK, EU, EEA or the OECD ("approved bank jurisdiction list"). Fiduciary relationships are by nature geographically diverse and transnational hence the potential need to maintain banking relationships in multiple countries.

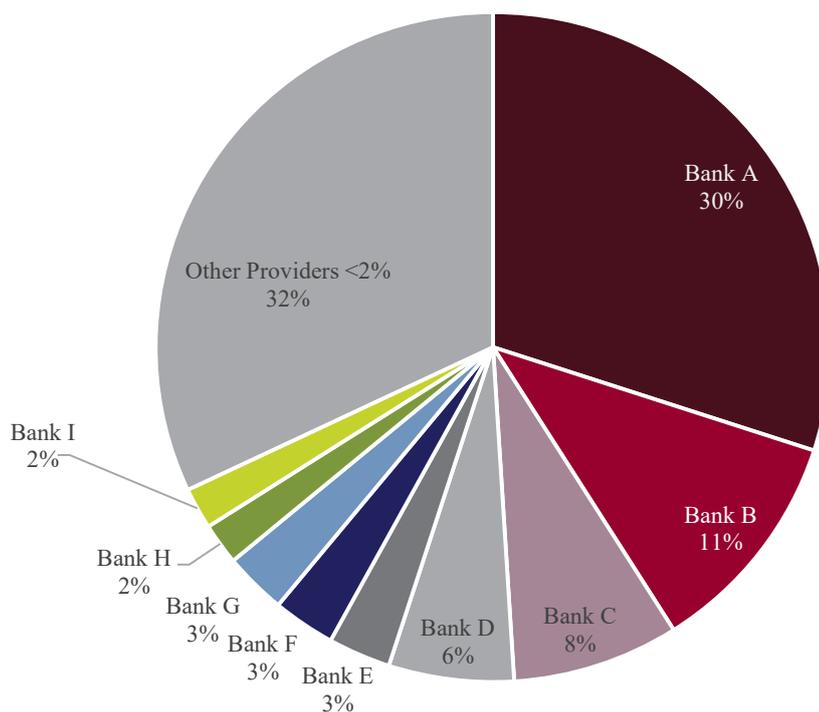
There is an onus conferred on licensees by the Fiduciary Rules to ensure that banks that hold Client Money that are not members of the above listed groups are regulated under an equivalent framework, have an acceptable level of capital adequacy and will provide similar levels of protection to Client Money as those listed.



*Figure 3 – Breakdown of jurisdictions of Client Money accounts of licensees based on the data collected from licensees in 2023.*

Figure 3 demonstrates that the majority of Client Money accounts are held in the Bailiwick; and of the 30% that are not, the vast majority are held in jurisdictions that appear on the approved bank jurisdiction list.

From the fiduciary banking relationship data collected in 2023, the Commission notes that a number of licensees placed a material reliance on a particular bank for Client Money. Those licensees were contacted at the time of the data gathering exercise, and were able to demonstrate adequate consideration around concentration risk.



*Figure 4 – Breakdown of providers of Client Money accounts for licensees based on the data collected from licensees in 2023.*

The Commission observed licensees maintaining an internal Approved Bank list, which considered various factors, including: the credit rating of the bank; and, where listed on an exchange, a review of the bank’s financial statements. These licensees described overnight screening being undertaken on the banks for adverse media. Licensees also described that, on occasion, newly-onboarded clients sometimes have pre-existing banking relationships and it can be easier to use the client’s existing provider by just changing the bank mandate, rather than opening new accounts where it would be unnecessary and uneconomic to do so. Any new banking providers were scrutinised by the licensee and, where appropriate, added to the licensee’s internal Approved Bank list.



**GOOD PRACTICE:**

The Commission observed licensees reviewing their internal Approved Bank lists on a periodic basis and conducting due diligence – at minimum annually, but in some instances quarterly. Regularly reviewing these arrangements ensures they are fit for purpose for the licensee and its clients.

The Commission found that licensees had varying levels of application regarding the due diligence process for banking providers. The Commission observed that whilst all licensees interviewed had an adequate level of understanding about the Approved Bank requirements in the Fiduciary Rules, some licensees interviewed had a more robust process than others. Some of this was out of necessity due to the nature and scale of the licensee, and the number of banking relationships they maintained.

The data collected in 2023 indicated that 3.6% of Client Money accounts were held with non-bank payment providers. As a result, the Commission consulted with the firms which were interviewed in order to determine if they encounter any issues when opening bank accounts for Client Money. The

majority of firms reported no significant problems, although some noted that the account opening process can be slow.

The Commission is conscious of concerns raised by industry representatives regarding ease of access (both speed and cost) to Approved Banks for fiduciary clients in some cases.

Licensees should be cognisant that if it is not possible to open Client Money accounts with an Approved Bank, all options having been exhausted, a modification request in respect of alternative arrangements, accompanied by a detailed rationale, may be submitted to the Commission for review on a case-by-case basis. Any such request should clearly explain why compliance with the Fiduciary Rules is not possible and why the alternative arrangement does not present undue risk to clients. Whilst access to banking arrangements was not raised as an overarching concern by licensees during the Thematic Review, the Commission will continue to monitor this issue and is open to further policy work in this area should modification requests increase.

## Conclusions

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Our overall findings from the Thematic Review highlight that the fiduciary sector largely demonstrates good practice around the operation of Client Money accounts with an effective control environment to keep Client Money safe.

A Client Bank Account is held by a licensed fiduciary and can be either pooled or non-pooled, whilst a Client Entity Bank Account is in the client's name but controlled by the fiduciary. This distinction is crucial due to the higher operational risks associated with pooled Client Bank Accounts given the increased risk of co-mingling.

Licenses use pooled Client Bank Accounts mainly when a structure is liquidated or before a client relationship is established. Although it was reported these are rarely used, licenses included additional strict controls around access to the pooled Client Bank Accounts in question. It was reported by licenses that banks often require prior notification and rationale for using such accounts.

Guidance in the Fiduciary Rules references monthly reconciliations for "pooled" client bank accounts and annual reconciliations for "non-pooled" accounts, with other frequencies of reconciliation based on transaction activity. The Commission found that licenses comply with these requirements, including reconciling more active accounts more frequently.

It was reassuring to note that when Client Money is held in pooled Client Bank Accounts, there is a higher level of consideration by the licensee, and more precautions put in place by both the licensee and the bank provider to ensure that Client Money is not co-mingled and easily identifiable to mitigate the operational risks that may occur were the bank or licensee to fail.

The Commission found that licenses generally have policies and procedures aligned with the requirements of the Fiduciary Rules. These procedures did vary in quality, and the Commission would remind licenses to ensure that their policies and procedures adequately reflect the obligations set out by the Fiduciary Rules, as well as incorporating any other appropriate regulation, rules and/or guidance as is necessary to maintain effective control mechanisms. Overall, it is clear that licenses are aware of the Client Money rules and subsequently have included reference to these in their procedures. It is important to emphasise that more breaches occurred at licenses which relied on more manual payment and reconciliation procedures.

The Fiduciary Rules require an annual independent review of controls over Client Bank Accounts, but the Commission saw evidence of firms mistakenly reviewing Client Entity Bank Accounts instead of Client Bank Accounts. The Commission draws licenses' attention to the fact that Client Bank Accounts are in the name of the licensee and that therefore the operational risks surrounding especially pooled Client Bank Accounts are heightened. The Commission observed differing approaches to CMP testing; all testing is conducted at least annually as stated by the requirements of the Fiduciary Rules.

The Fiduciary Rules allow a broad range of jurisdictions in which banking relationships can be established; this is due to the transnational nature of fiduciary relationships, often accommodating clients' pre-existing banking relationships. There is a requirement on licenses, conferred by the Fiduciary Rules, to ensure that Client Money is held safely at banks which are appropriately regulated and hold sufficient capital. Licenses conduct appropriate due diligence on banking institutions and maintain approved banking provider lists.

Where the Commission recognises that sometimes Client Money accounts go overdrawn through no fault of the licensee, considering measures to further mitigate this risk would be appropriate.

## Self-Assurance Questions

The following self-assurance questions are intended to assist licensees' considerations of their Client Money arrangements:

No.	Question
1	<p>Have all Client Money accounts been appropriately categorised into Client Bank Accounts and Client Entity Bank Accounts according to the definitions at 6.1 of the Fiduciary Rules?</p> <ul style="list-style-type: none"> <li>• Client Bank Accounts are accounts which are in the licensee's name and controlled by it, for one or more clients. Examples are designated trustee accounts (e.g. bank accounts which include "as trustee of") and pooled client accounts in the firm's name. Client Bank Accounts are therefore not limited to just pooled accounts.</li> <li>• A Client Entity Bank Account is a bank account that is under the name of a client or client's company (not in the licensee's name), but are controlled by the licensee.</li> </ul>
2	<p>Are Client Money accounts reconciled appropriately according to the Fiduciary Rules?</p> <p>Per the Fiduciary Rules, the Commission expects, as a minimum, that the reconciliation should be carried out –</p> <ol style="list-style-type: none"> <li>i. for a Client Bank Account <ul style="list-style-type: none"> <li>– at least on a monthly basis for a pooled account;</li> <li>– at least annually for a non-pooled account, or more regularly on the basis of the volume and frequency of transaction;</li> </ul> </li> <li>ii. for a Client Entity Bank Account, at a minimum annually, or more regularly on the basis of the volume and frequency of transactions.</li> </ol>
3	<p>How often have your Client Bank Accounts gone overdrawn in the past year? What steps are you taking to avoid a repeat next year?</p>
4	<p>Is there clear communication with your banking provider(s) regarding both quantum of transaction charges, and quantum and timing of bank service charges?</p>
5	<p>How do your policies and procedures relating to Client Money adequately reflect the requirements of the Fiduciary Rules?</p>
6	<p>Are your policies and procedures regarding Client Money:</p> <ol style="list-style-type: none"> <li>i. clear;</li> <li>ii. accessible;</li> <li>iii. applicable to local regulatory requirements; and</li> <li>iv. adequately embedded within your organisation?</li> </ol>
7	<p>Are there appropriate tests within your CMP covering Client Money and your compliance with the Fiduciary Rules?</p>
8	<p>Is Client Money being held with an Approved Bank? If not, having exhausted all options, have you considered submitting a modification request to the Commission for alternative arrangements?</p>

## Glossary of Terms

Term	Description
Analysis firm	Firm interviewed for the purpose of this Thematic Review
Approved Bank	<p>Per 6.1 of the Fiduciary Rules, an institution which is:</p> <ul style="list-style-type: none"> <li>(a) licensed under the Banking Supervision (Bailiwick of Guernsey) Law 2020;</li> <li>(b) registered under the Banking Business (Jersey) Law 1991;</li> <li>(c) licensed under the Isle of Man Financial Services Act 2008 to carry on a regulated activity falling within Class 1 (deposit-taking businesses);</li> <li>(d) authorised under the Financial Service and Markets Act 2000 of the United Kingdom to carry on the regulated activity of deposit taking;</li> <li>(e) a building society, registered and incorporated under the Building Societies Act 1986 of the United Kingdom, which operates a deposit-taking business without restriction;</li> <li>(f) a bank which is supervised by the central bank or other banking regulator of a member state of the Organisation for Economic Cooperation and Development (“OECD”);</li> <li>(g) a credit institution established in a European Union (“EU”) or European Economic Area (“EEA”) state and duly authorised by the relevant home state regulator; or</li> <li>(h) any other bank where the licensee is satisfied with its capital adequacy and that the applicable laws and regulations governing such bank provides a similar level of protection of client money to institutions listed above;</li> </ul> <p>Guidance Note:</p> <p>For (h), the licensee should ensure that the bank meets the following criteria:</p> <ul style="list-style-type: none"> <li>1) is subject to regulation by a national banking regulator;</li> <li>2) is required to provide audited accounts annually;</li> <li>3) has minimum net assets of £5 million (or its equivalent in any other currency at the relevant time) and has a surplus of revenue over expenditure for the last 2 financial years; and</li> <li>4) has an annual audit report which is not materially qualified.</li> </ul>
Bailiwick	Bailiwick of Guernsey
Client	<p>Per 59(1) of the Law, either:</p> <ul style="list-style-type: none"> <li>(a) A person who has entered into or may enter into agreements for the provision of services by that person when carrying on by way of business any regulated activities, or</li> <li>(b) A person who has received or may reasonably expect to receive the benefit of services provided or arranged or to be provided or arranged by that person when carrying on by way of business any regulated activities</li> </ul>

Client Bank Account	Per 6.1 of the Fiduciary Rules, an account held by a licensed fiduciary at an approved bank which holds, or is intended to hold, money on behalf of one or more clients
Client Entity Bank Account	Per 6.1 of the Fiduciary Rules, an account at an approved bank, in the name of the client or a client-related entity and which is not in the name of a licensed fiduciary
Client Money	Per 2.5.1 (2) of the Fiduciary Rules, money which is held or received on behalf of a client; or controlled by a licensed fiduciary in accordance with the responsibilities the licensed fiduciary has accepted in the course of carrying on regulated activity under the Law (referred to as “Fiduciary Client Money” in the Fiduciary Rules)
CMP	Compliance Monitoring Programme
Commission	The Guernsey Financial Services Commission
Fiduciary Rules	The Fiduciary Rules and Guidance, 2021
GIFCS	Group of International Financial Centre Supervisors
TCSP	Trust and Corporate Service Provider
Thematic Review	Refers to this Thematic Review
The Law	The Regulation of Fiduciaries, Administration Business and Company Directors, etc (Bailiwick of Guernsey) Law, 2020