



## DRAFT AGED BALANCES GUIDANCE

### Aged Balances Guidance

#### **Purpose of this Guidance**

This guidance aims to help the regulated community resolve the problem of Aged Balances.

Note that the self-certification scheme introduced in September 2020 means that firms do not need CLC authorisation to withdraw aged balances less than £50.

**Part 1** provides guidance on avoiding or minimising the occurrence Aged Balances, and

**Part 2** sets out the procedure which the CLC will follow, and the information you need to provide, when it considers whether to give written authority for the withdrawal of an aged balance of £50 or more.

#### ***Part 1: Avoiding Aged Balances***

##### **A. On Receipt of Instructions**

1. Obtain the Client's bank account details (name and address of bank, sort code, account number and name), or the Client's credit card details.

##### **B. Completion Statements**

2. The CLC Practice should keep accurate and up to date completion statements:
  - (a) a completion statement is an itemised statement of money paid in and out of the Client Account, concluding with a balance either owed by or to be paid to the Rightful Recipient
  - (b) draft completion statements should be prepared and checked prior to exchange of contracts
  - (c) all completion statements (in draft or final form) should be checked for accuracy by reference:
    - i. to the transaction file, and
    - ii. to the Client ledger, with evidence from the Rightful Recipient on a Durable Medium.

##### **C. Client Ledger Cards**

3. The Client ledger card should be checked to ascertain whether a balance remains after the last payment is made and, if so, the balance should be accounted for immediately to the Rightful Recipient.
4. It is good practice to ensure that:
  - (a) the Client ledger balances are reviewed monthly to identify unexpected or dormant Client balances
  - (b) if a balance is held against a contingent liability, a note is made on the Client ledger card (or alternatively the file) clearly identifying that liability, and

- (c) a schedule of Client balances held for 3 months or more is maintained stating in each case the client(s) name(s), file/ledger number, the Rightful Recipient, the balance outstanding, the date of last movement and the reason for the balance.
5. Before a file is closed or archived:
- (a) the Client ledger card should be checked to ensure:
    - i. no balance is outstanding, and
    - ii. all cheque payments have been cleared by the bank
  - (b) a copy of the Client ledger card showing a nil balance on both the Client and Office Accounts should be placed on the file.

#### **D. Unpresented Cheques**

6. Unpresented cheques should be reviewed on a regular basis.
- (a) Unpresented mortgage redemption cheques: the Rightful Recipient should be contacted within 12 days and no later than one month after payment has been tendered and then at frequent intervals,
  - (b) All other cheques: the Rightful Recipient should be contacted after no more than two months after the cheque has been tendered and then at a minimum of two monthly intervals.
7. If a cheque has been lost or remains unpresented after six months:
- (a) a stop should be placed on the original cheque
  - (b) the cheque should be written back to the client ledger account, and
  - (c) the monies should be paid:
    - i. either direct to the Rightful Recipient's bank account, or alternatively credit card account, or
    - ii. at the Rightful Recipient's direction.

#### **E. Retention Monies**

8. Where possible the CLC Practice should seek agreement providing for retention monies to be held on terms that provide for payment to a named person at a specified Bank account if the terms for their release have not been satisfied within a specified period.
9. If no such term has been agreed:
- (a) the file should be reviewed every three months, and
  - (b) you should seek to obtain such an agreement.
10. It is good practice to maintain:
- (a) a schedule of retention balances stating in each case the Client(s) name(s), the file/ledger number, the amount of and the reason for the retention and the last date for release, and
  - (b) a separate note of the reason for the retention and the last date for release on the client ledger card.

#### **F. Aborted or Delayed Transactions**

11. Regular contact should be maintained with the client where the matter has either aborted or been delayed.

## **Part 2 – Withdrawal of Aged Balances**

### **A. Aged Balances not exceeding £50**

12. The CLC does not need to authorise the withdrawal of an Aged Balance not exceeding £50 provided that the conditions in paragraph 4.4 of the Account Code are met.
13. For all withdrawals ensure the relevant entries have been made to a suitable office nominal ledger account e.g. "Write-Offs".

### **B. Aged Balances exceeding £50**

14. The withdrawal of an Aged Balance exceeding £50 to the Office Account must be authorised by the CLC and paid to the CLC (paragraph 4.7 of the Accounts Code).
15. An application for authorisation must be signed and dated and must include:
  - (a) A schedule setting out the:
    - i. Client(s) name(s)
    - ii. file/ledger reference
    - iii. address of the property concerned
    - iv. name of the Rightful Recipient(s)
    - v. balance outstanding, and
    - vi. date of last movement on Client Account
  - (b) A copy of the Client ledger card(s)
  - (c) A description of how the balance came about, and
  - (d) A statement confirming that reasonable steps have been taken to locate the Rightful Recipient, describing what the reasonable steps were and that they were unsuccessful.

### **What are reasonable steps?**

16. What amounts to reasonable steps will depend on the particular circumstances and the sum involved. Examples are:
  - attempting to contact the Rightful Recipient at all known addresses, by all known telephone numbers and at any known e-mail address, or through Estate Agents
  - attempting to return funds using available bank or credit card details of the Rightful Recipient
  - contacting known contacts of the Rightful Recipient
  - advertising in a local newspaper.
17. Where the Rightful Recipient cannot be identified, the CLC will, in exceptional circumstances, give authority for the withdrawal of funds from Client Account on the basis that a funds transfer for any sum so authorised must be drawn on the Client Account payable to the CLC. On receipt,

the funds will be placed to the credit of the CLC's Compensation Fund. You should place a copy of the authority issued by the CLC on the Client's file.

18. If the Rightful Recipient makes contact after funds have been paid into the CLC's Compensation Fund the CLC Practice should contact the CLC with a view to the Rightful Recipient making a claim for reimbursement on the Compensation Fund unless the body is no longer trading in which case they should contact the CLC directly.

*19 May 2020*