

GUIDANCE FACTSHEET

ACCOUNTING TO CLIENTS FOR COMMISSIONS AND REFERRAL FEES

The Chartered Certified Accountants' Designated Professional Body Regulations (DPBRs) set out the requirements for accounting to clients for remuneration received from investment business activities. Requirements for accounting to clients for commissions and referral fees (and other financial benefits) are also contained in the ACCA Code of Ethics and Conduct (the Code). The DPBRs and the Code are published in the *ACCA Rulebook* at accaglobal.com/rulebook.

This factsheet has no regulatory status. It is issued for guidance purposes only, and in the event of any conflict between the content of this factsheet and the content of the *ACCA Rulebook*, the latter shall at all times take precedence. Therefore, this factsheet should not be regarded by a member as a substitute for familiarising themselves with the appropriate regulations or, where necessary, obtaining specific advice concerning a specific situation.

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INTRODUCTION

ACCA requires all practitioners and regulated firms to account to clients for commissions and referral fees (and other financial benefits) in accordance with the regulatory requirements set out in the [ACCA Rulebook](#). We have adopted a principles-based approach which allows practitioners and regulated firms flexibility to determine how to meet these regulatory requirements.

REGULATORY REQUIREMENTS

Members and firms authorised by ACCA to carry on exempt regulated activities in the UK under Part XX of the Financial Services and Markets Act 2000 (the Act) must comply with the requirements set out in Regulation 3(7) of the DPBRs. The relevant extracts from the DPBRs are provided in [Appendix 1](#).

In addition, all members and firms must comply with the Code (see **Threats to ethical principles and independence**). This includes the requirements regarding commissions and referral fees (and other financial benefits) set out in the following sections:

- Conflicts of interest (Section 310)
- Fees and other types of remuneration (Section 330)
- Custody of client assets (Section 350).

The relevant extracts from the Code are provided in [Appendix 2](#).

TYPES OF COMMISSIONS AND REFERRAL FEES

REMUNERATION ARISING FROM EXEMPT REGULATED ACTIVITIES

Remuneration arising from exempt regulated activities (ie investment business activities) is subject to the requirements set out in Regulation 3(7) of the DPBRs.

Specific examples of the types of remuneration arising from investment business activities that would be subject to the requirements set out in the DPBRs include:

- Arranging funding – typically under £500, but there may be recurring monthly income of up to £50 per month
- Mortgage broker – typically £100 to £400 for recommending a client that takes out a mortgage through the broker.

COMMISSIONS AND REFERRAL FEES RELATING TO OTHER BUSINESS ACTIVITIES

Members and firms receiving or paying commissions and referral fees (or receiving other financial benefits) relating to other business activities are required to comply with the Fundamental Principles of ethics set out in the Code. In addition, Sections 310 (Conflicts of Interest), 330 (Fees and Other Types of Remuneration), and 350 (Custody of Client Assets) of the Code set out possible safeguards in relation to commissions and referral fees (and other financial benefits) relating to other business activities.

A commission, referral fee, reward or other financial gain may be **received** by a firm, for example in return for the introduction of a new client; the referral of an existing client to another firm or expert for the provision of advice and other services; or the sale of goods or services to a client.

A commission or referral fee may be **paid** by a firm, for example in return for obtaining a new client from another firm that requires specialist services not offered by the other firm.

Specific examples of the types of commissions and referral fees relating to other business activities that would be subject to the requirements set out in the Code include:

- Banks on opening a bank account – typically less than £50
- HR Services on recommending a monthly subscription – normally 10% to 20%, typically £100 per quarter
- Tax Specialist services – typically up to 20% but can be higher eg £2,000 on a £10,000 fee
- App providers – up to 20% of the monthly fee charged to the client, typically £10 to £50 per month.

ACCOUNTING TO THE CLIENT

Members and firms are required to **account to the client** for commissions and referral fees. This applies to all types of commissions and referral fees received or paid.

‘Accounting to the client’ includes:

- issuing written agreements at the start of the engagement
- obtaining client consent for the retention of commissions and referral fees received
- maintaining accounting records
- reporting to the client the commissions and referral fees received or paid
- identifying, evaluating, and addressing threats to ethical principles and independence.

The guidance on each aspect of accounting to the client may vary. Where appropriate, we differentiate between the guidance for remuneration arising from exempt regulated activities (which is regulated under the DPBRs) and the guidance for commissions and referral fees (and other financial benefits) relating to other business activities.

WRITTEN AGREEMENTS

Firms should provide general information in an engagement letter to the client on commissions and referral fees received and paid. This applies to **all** types of commissions and referral fees.

The engagement letter should state that the firm may receive and pay commissions and referral fees (and receive other financial benefits) and explain how and when the firm will inform the client of the actual commissions and referral fees received and paid (see **Reporting commissions and referral fees to the client**).

The information should also cover the retention of commissions and referral fees received (see **Retention of commissions and referral fees received**). The client should be asked to agree to the scope and terms of the engagement in writing, including consent to retain commissions and referral fees received. If there is a subsequent change in the scope of the engagement that results in a new type of commission or referral fee, you can refer the client to the original terms of business around commissions and referral fees.

Further information on Engagement letters is available on our website at [Technical factsheet: Engagement letters for practitioners – accounts production](#).

In the Technical factsheet we provide example engagement letters, guidance notes to the appendices, covering letter, privacy notice, schedules of services, standard terms and conditions of business and disengagement letter wording. The template engagement letter for practitioners includes paragraphs on commissions and other benefits for introductions to other professionals or in respect of transactions that the firm arranges for the client.

The template engagement letter is a general engagement letter for firms that are not regulated or licensed by ACCA in respect of investment business, and the guidance covers general information on commissions and other benefits. It does **not** specifically cover investment business engagement letters, or provide example wording for investment business and related issues such as insurance distribution and referrals to third parties.

If you carry on exempt regulated activities in the UK you should seek further guidance on engagements under your investment business authorisation from the [UK Technical Advisory team](#), or refer to the requirements in the [ACCA Rulebook](#) (DPBRs) or the [FCA Handbook – Specialist sourcebook \(PROF Professional Firms\)](#).

Please note that the letters of engagement, specimen letters and terms and conditions provided by ACCA are **examples only**. They may not address all of the issues for each specific client you intend to issue letters of engagement, specimen letters and terms and conditions to. The terms included in an engagement letter in relation to commissions and other benefits will depend on your circumstances and what is agreed with the client with regard to retention and notification. If there are any client matters not dealt with in the examples, you should undertake additional research and amend your letter accordingly.

RETENTION OF COMMISSIONS AND REFERRAL FEES RECEIVED

At the start of the engagement members and firms must obtain the client's written consent to retain commissions and referral fees received. This applies to **all** types of commissions and referral fees received. If the client does not provide written consent, you cannot retain the commission or referral fee.

In securing the written consent of the client to **retain remuneration arising from exempt regulated activities (ie investment business activities)**, including anticipated remuneration arising (or anticipated to arise) from such activities, you should provide details of the nature, amount and frequency of the remuneration receivable from the exempt regulated activity in the engagement letter. It's **not** considered sufficient to obtain the client's general consent to the retention of remuneration received from exempt regulated activities.

You must also provide the client with information on the nature of **commissions and referral fees relating to other business activities**. If you intend to retain the commission and referral fees, examples of the commissions and referral fees (and other financial benefits) likely to be receivable should be provided in the engagement letter. It's sufficient to obtain the client's general consent to the retention of such remuneration received.

MAINTAINING RECORDS

Members and firms must maintain records of commissions and referral fees received and paid. This applies to **all** types of commissions and referral fees.

You should ensure that sufficient information is recorded and retained to enable you to demonstrate compliance with the regulatory system. The records will be subject to monitoring by ACCA and should be retained for a minimum of six years.

REPORTING COMMISSIONS AND REFERRAL FEES TO THE CLIENT

Members and firms must inform the client of the actual **remuneration arising from exempt regulated activities (ie investment business activities) at least annually**. You should issue an annual statement which highlights all the remuneration received and retained in the period.

There is **no** requirement to disclose remuneration received by the firm that is not retained.

It's also best practice to inform the client of the actual **commissions and referral fees (and other financial benefits) relating to other business activities at least annually**. You can issue an annual statement or, alternatively, you can advise the client at the start of the engagement that an annual statement **is available on request**. The latter approach may be more practical if there are immaterial commissions and referral fees relating to multiple sources that do not create threats to ethical principles and independence.

Again, there is **no** requirement to disclose commissions and referral fees (and other financial benefits) received by the firm that are not retained.

Firms can decide how best to disclose commissions and referral fees to clients. However, the annual statement should identify the monetary amounts received and paid, from and to whom, and may contain summary totals for frequent, immaterial amounts of commissions and referral fees.

For **all** types of commissions and referral fees, the option to inform the client **on a more frequent basis** is available where it is in the interest of, or desired by, the client. In particular, if the commission or referral fee is material and/or creates a threat to ethical principles and independence, you should consider informing the client at the earliest opportunity.

THREATS TO ETHICAL PRINCIPLES AND INDEPENDENCE

Professional accountants in public practice must comply with the five Fundamental Principles of ethics in the Code and apply the Conceptual Framework to identify, evaluate and address threats to the Fundamental Principles and your independence arising from commissions and referral fees (and other financial benefits). Applying the Conceptual Framework requires you to exercise professional judgment, remain alert for new information and to changes in facts and circumstances, and use the reasonable and informed third party test.

Members and firms in public practice must also follow the requirements in the Code regarding commissions and referral fees (and other financial benefits) which are set out in the following sections:

- Conflicts of interest (Section 310)
- Fees and other types of remuneration (Section 330)
- Custody of client assets (Section 350).

Commissions and referral fees (and other financial benefits) create threats to compliance with the Fundamental Principles of Objectivity and Professional Competence and Due Care, and could compromise your independence. If you pay or receive a commission or referral fee relating to a client (or receive other financial benefits) this creates a conflict of interest and a self-interest threat unless you disclose it.

Identified threats to compliance with the Fundamental Principles arising from commissions and referral fees (and other financial benefits) must be evaluated and addressed, to ensure that they are either eliminated or reduced to an acceptable level. In particular, you are required to apply the reasonable and informed third party test and consider whether a reasonable and informed third party would conclude that your objectivity, professional competence and due care, and independence have been adequately safeguarded. You are also encouraged to document the substance of the threat, the details of any discussions, the decisions made, and the rationale for these decisions.

FURTHER INFORMATION

Further information is available on the ACCA website at www.accaglobal.com, or by contacting Technical Advice and Support in your region.

APPENDIX 1

DESIGNATED PROFESSIONAL BODY REGULATIONS (EXTRACT)

The Chartered Certified Accountants' Designated Professional Body Regulations 2001

Chapter 2 Interpretation

2. Interpretation

exempt regulated activity means a regulated activity which may, as a result of Part XX of the Financial Services and Markets Act 2000, be carried on by firms regulated by the Association without breaching the general prohibition;

remuneration means any commission, fee, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given;

Chapter 3 Eligibility

3. Eligibility to carry on regulated activities

(7) Receipt of remuneration

- (a) Any [remuneration](#), including anticipated remuneration, arising (or anticipated to arise) out of carrying on [exempt regulated activities](#) can only be retained where the member or firm accounts to the client for that remuneration at the earliest reasonable opportunity, and in good time before the conclusion of an insurance contract. "Accounts to the client" means:
 - (i) remitting any remuneration to the client; or
 - (ii) informing the client of the remuneration and that they have the right to require the firm to pay the amount concerned to the client, thus requiring the client's informed consent, in writing, if the firm is to retain the remuneration in question.
- (b) It is not considered sufficient for the firm to obtain a client's general consent to the firm's retention of such remuneration.
- (c) In securing the consent of the client, the client must be informed clearly of the nature of the remuneration, including its amount and frequency. The client must be informed at least annually of the remuneration received.
- (d) The member or firm must maintain records of the remuneration arising out of carrying on exempt regulated activities.
- (e) Firms should follow the requirements regarding conflicts of interest, fees and other types of remuneration, and the custody of client assets under the Code of Ethics and Conduct.

APPENDIX 2

CODE OF ETHICS AND CONDUCT (EXTRACT)

Code of Ethics and Conduct

SECTION 310: CONFLICTS OF INTEREST

Commission and other financial gains

- 310.17 *Where any commission, fee, reward or other financial gain is received by a firm or anyone in the firm, in return for the introduction of clients, as a result of advice or other services given to clients, or as a result of using information known about clients, the professional accountant in public practice shall establish safeguards to eliminate the threats or reduce them to an acceptable level. Such safeguards shall include:*
- (a) *disclosing to the client in writing any referral fees or commission arrangements paid to, or received from, another professional accountant or third party for recommending services or products*
 - (b) *obtaining advance agreement from the client for commission arrangements in connection with the sale by another party of goods or services to the client.*
- 310.18 *The provisions in paragraph 310.17 apply to any commission, fee, reward or other financial gain received, whether it relates to a single transaction concerning a client or more than one client, or a series or group of transactions concerning a client or more than one client. For the avoidance of doubt, this includes "override" commission, whereby in some jurisdictions commission may be earned if the number of financial products of a particular type sold by a professional accountant in public practice reaches a certain level.*
- 310.19 *Where the commission, fee, reward or other financial gain results from advice given to a client, special care shall be taken that the advice is in fact in the best interests of the client.*

SECTION 330: FEES AND OTHER TYPES OF REMUNERATION

Referral Fees or Commissions

- 330.5 A1 *A self-interest threat to compliance with the principles of objectivity and professional competence and due care is created if a professional accountant pays or receives a referral fee or receives a commission relating to a client. Such referral fees or commissions include, for example:*
- *A fee paid to another professional accountant for the purposes of obtaining new client work when the client continues as a client of the existing accountant but requires specialist services not offered by that accountant.*
 - *A fee received for referring a continuing client to another professional accountant or other expert where the existing accountant does not provide the specific professional service required by the client.*
 - *A commission received from a third party (for example, a software vendor) in connection with the sale of goods or services to a client.*
- 330.5 A2 *Examples of actions that might be safeguards to address such a self-interest threat include:*
- *Obtaining an advance agreement from the client for commission arrangements in connection with the sale by another party of goods or services to the client might address a self-interest threat.*
 - *Disclosing to clients any referral fees or commission arrangements paid to, or received from, another professional accountant or third party for recommending services or products might address a self-interest threat.*
- 330.5 A3 *A professional accountant in public practice may receive commission in respect of transactions effected for clients on the basis that this must be repaid in certain circumstances. In these circumstances, the professional accountant in public practice may agree with clients any one of the following options:*
- (a) *to delay refunding the clients' commission until the expiry of the term; or*
 - (b) *to place the commission into a designated deposit account until the expiry of the term and then to refund the commission to clients with interest; or*
 - (c) *to rebate the clients' commission annually over the term; or*
 - (d) *to request persons paying commission to pay only the commission due each year, retaining the balance;*

or

(e) to forgo all commission; or

(f) to instruct the persons offering commission to retain the commission for the benefit of clients' pension or other policies.

330.5 A4 Nothing in this Code prohibits a professional accountant in public practice from refunding the commission to clients either with or without clients' confirmation that they would reimburse the professional accountant in the event that the commission became repayable.

SECTION 350: CUSTODY OF CLIENT ASSETS

Clients' monies

350.6 A professional accountant in public practice is strictly accountable for all clients' monies that the professional accountant receives.

350.7 In this section, the term "clients' monies" includes all monies received by a professional accountant in public practice to be held or disbursed by the professional accountant on the instructions of the persons from whom or on whose behalf they are received and includes insolvency monies.

Clients' accounts

350.8 Clients' monies shall be paid without delay into a bank account, separate from other accounts of the firm.

350.9 Such accounts may be either general accounts or accounts in the name of the specific client. All such accounts shall in all cases include in their title the word "client". Any such bank accounts are referred to herein as "a client account".

350.10 Where it is anticipated that the monies of individual clients in excess of £10,000 or its equivalent will be held by the firm for more than 30 days, the money shall be paid into a separate bank account designated by the name of the client or number allocated to the client account.

350.11 The term "bank" is defined below.

Opening a client bank account

350.12 Whenever a firm opens a client account, it shall give written notice in clear terms to the bank concerned as to the nature of the account.

350.13 The notice shall require the bank to acknowledge in writing that it accepts the terms of the notice.

Payments into a client bank account

350.14 Where a firm receives cheques or drafts that include both clients' monies and other monies, it shall pay them into a client account.

350.15 Once the monies have been received into such a client account, the firm shall withdraw from that account such part of the sum received as can properly be transferred to an office account in accordance with the guidance set out below.

350.16 Save as referred to in paragraph 350.15 above, no monies other than clients' monies shall be paid into a client account.

Withdrawals from a client bank account

350.17 The following may be withdrawn from a client bank account, provided that the sums withdrawn shall not exceed the total of the monies held for the time being in the account of the client concerned:

(a) monies properly required for a payment to or on behalf of a client;

(b) monies properly required for or towards payment of debts due to the firm from a client, otherwise than in respect of fees or commissions earned by the firm;

(c) monies properly required for or towards payment of fees or commissions payable to the firm by a client for work properly carried out by the firm;

(d) monies drawn on a client's authority or in conformity with any contract between the firm and a client.

350.18 Monies shall not be withdrawn from a client bank account for or towards payment of fees or commissions payable under paragraph 350.17 above unless:

- (a) *the client has been notified in writing that monies held or received on the client's behalf will be applied against those fees or commissions, and the client has not disagreed; and*
- (b) *a principal of the firm has expressly authorised the withdrawal; and*
- (c) *either:*
 - (i) *30 days have elapsed since the date of delivery to the client of the notification; or*
 - (ii) *the precise amount to be withdrawn has been agreed with the client in writing or has been finally determined by a court or arbitrator.*

350.19 *A firm shall be careful to differentiate, both in its records and, where appropriate, in its use of client accounts, between monies held on behalf of clients in their personal capacity and those, with the knowledge of the firm, held on behalf of those same clients as trustees for others. A separate client account shall be opened to receive the trust monies of each separate trust.*

350.20 *Bank charges for maintaining client accounts shall be paid out of the firm's own account and not from any client account.*

Fees paid in advance

350.21 *Fees paid by clients in advance for professional work agreed to be performed and clearly identifiable as such shall not be regarded as clients' monies for the purposes of this Code.*

350.22 *Professional accountants in public practice are reminded that, where professional work paid for in advance is not carried out, fees advanced by the client shall be returned to him/her. A professional accountant in public practice shall ensure that sufficient financial resources to meet any such repayment are available.*

Interest payable on client account monies

350.23 *Subject to paragraph 350.24 below, in respect of all monies held by a firm on behalf of clients, the firm shall pay clients interest of not less than the amount that would have been earned by way of gross interest if all clients' monies held by the firm for clients had been kept in separate interest-bearing accounts at the small deposit rate with the bank concerned.*

350.24 *The obligation in paragraph 350.23 above may be over-ridden by express written agreement between the firm and a client. For instance, clients could agree to forgo sums of interest of less than, say, UK £10, or in respect of bank credits until they have been cleared.*

350.25 *Interest on trust accounts shall be paid and the requirements of paragraphs 350.23 and 350.24 above are not applicable to trust monies.*

Monies held by the firm as stakeholder

350.26 *Monies held by a professional accountant as stakeholder shall be regarded as clients' monies and shall be paid into a separate bank account maintained for the purpose or into a client bank account.*

Maintaining records

350.27 *A firm shall at all times maintain accurate records and controls (e.g. by way of reconciliations) so as to show clearly the monies it has received, held, and paid on account of their clients, and the details of any other monies dealt with by them through a client account, clearly distinguishing the monies of each client from the monies of other clients and from the firm's monies.*

350.28 *A firm shall complete reconciliations of monies held by them through a client account at least every 50 days. The reconciliations shall include:*

- (a) *a reconciliation of the total balances on all the firm's client bank accounts with the total corresponding credit balances in respect of the firm's clients, as recorded by the firm, and where any difference arises, this must be corrected immediately; and*
- (b) *at the same time as carrying out the reconciliation under paragraph 350.28(a) above, a reconciliation of the balance on each client bank account, as recorded by the firm, with the balance on that account as set out in the statement issued by the bank and, where any difference arises, this must be corrected immediately, unless the difference arises solely as a result of timing differences.*

350.29 *A professional accountant shall maintain such records for a period of not less than six years from the date of the last transaction recorded.*

Fees and fee disputes

350.30 *The attention of professional accountants is drawn to the guidance on fees contained in Section 330, Fees and*

other types of remuneration.

350.31 *A professional accountant shall not withhold due payment out of monies to clients for the sole reason that a dispute exists in relation to fees.*

Bank

350.32 *The term "bank" comprises an institution authorised within the meaning of the Banking Act 1987 of the United Kingdom, the Bank of England, the central bank of another member state of the European Community, a building society within the meaning of the Building Societies Act 1986 of the United Kingdom (which has adopted the power to provide unrestricted money transaction services) and equivalent institutions around the world.*

Untraceable funds

350.33 *In exceptional circumstances client money may be withdrawn from a client account on the written authorisation of ACCA, which may impose the condition that the money be paid by the professional accountant to a charity which gives an indemnity against any legitimate claim subsequently made for the money in question.*