

MODIFICATION NOTICE

To	ES Bankers (Dubai) Limited (In Liquidation)
Address	Office 1203, Level 12, The Gate, West Wing, DIFC, PO Box 506627, Dubai, UAE
DFSA Firm Reference No.	F000553
Notice No.	W373/2015

THE DFSA HEREBY GIVES NOTICE THAT:

The Rules specified in the left hand column of the table herein do not apply to the above mentioned Person in the form appearing in the Rulebook but instead apply as modified in the right hand column of the table.

RULES MODIFIED

The Rules specified in the left hand column are modified to the extent shown in the right hand column of the table below. In this table, underlining indicates new text and striking through indicates deleted text, otherwise the Rule remains unaltered. Where a significant number of the paragraphs of the Rule remain un-altered the entire Rule may not be reproduced in the table. In such circumstances the un-altered parts of the Rule will be referred to by the relevant identifying paragraph number or letter, as the case may be.

Rule	Modified Text
COB A5.13.1	This section is referred to as the Client Money Distribution Rules and, <u>subject to A5.13.2(a) below</u> , to the extent that these Rules are inconsistent with part 5.52 of the DIFC Insolvency Regulations, and the DIFC Preferential Creditor Regulations, these Rules will prevail.
COB A5.13.2	Following a Distribution Event, the Authorised Firm must distribute Money in the following order of priorities: <u>(a) firstly, to pay the expenses or costs in (i) and (ii) below which have been incurred by the liquidator in ensuring the identification and distribution of Client Money or Client Investments:</u> <u>(i) preferential debts of the Company as described in the DIFC Preferential Creditor Regulations; and</u>

Rule	Modified Text
	<p><u>(ii) expenses and remuneration listed in Regulation 5.52 of the DIFC Insolvency Regulations, or in such other order of priority as may be ordered by the DIFC Court pursuant to Articles 65 or 71 of the Insolvency Law 2009 or Regulation 5.54 of the DIFC Insolvency Regulations;</u></p> <p>(a) <u>secondly</u> firstly, in relation to Client Money held in a Client Account on behalf of Segregated Clients, claims relating to that Money must be paid to each Segregated Client in full or, where insufficient funds are held in a Client Account, proportionately, in accordance with each Segregated Client's valid claim over that Money;</p> <p>(b) <u>thirdly</u> secondly, where the amount of Client Money in a Client Account is insufficient to satisfy the claims of Segregated Clients in respect of that Money, or not being immediately available to satisfy such claims, all other Money held by the Authorised Firm must be used to satisfy any outstanding amounts remaining payable to Segregated Clients but not satisfied from the application of (a) <u>(b)</u> above;</p> <p>(c) <u>fourthly</u> thirdly, upon resolution of claims in relation to Segregated Clients, any Money remaining with the Authorised Firm must be paid to each Client in full or, where insufficient funds are held by the Authorised Firm, proportionately, in accordance with each Client's valid claim over that Money; and</p> <p>(d) <u>fifthly</u> fourthly, upon satisfaction of all claims in (a), <u>(b)</u>, <u>(c)</u> and (c) above, in the event of:</p> <p>(i) the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy over the Authorised Firm, payment must be made accordance with the Insolvency Law 2004; or</p> <p>(ii) all other Distribution Events, payment must be made in accordance with the direction of the DFSA.</p> <p>Guidance</p> <p>A Segregated Client would not have a valid claim over Client Money held in a Client Account if that Client Account was not established to hold Client Money for that Client.</p>

CONDITIONS

None.

EFFECTIVE PERIOD

This notice comes into effect on the date of issue and remains in force until further notice.

INTERPRETATION

The provisions in this notice are to be construed in accordance with GEN section 6.2 as if these provisions are provisions of the Rulebook.

Defined terms are identified in this notice by the capitalisation of the initial letter of a word or of each word in a phrase and are defined in the Glossary (GLO). Unless the context otherwise requires, where capitalisation of the initial letter is not used, an expression has its natural meaning.

THIS NOTICE IS ISSUED UNDER ARTICLE 25 OF THE REGULATORY LAW 2004 BY:

Name: Bryan Stirewalt

Position: Acting Chief Executive Officer

DATE OF ISSUE: 19 March 2015