

Australian Client Money Reforms Take Another Step Closer

Under the new bill, companies operating under the Australian Securities and Investments Commission's license will be required to hold retail derivative client money on trust



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The proposed client money reforms to the OTC derivatives market continue to move swiftly through the Australian Parliament.

The Treasury Laws Amendment (2016 Measures No.1) Bill ("the Bill") contains the proposed retail client money reforms. The House of representatives (lower house) passed the Bill on 13 February 2017. It is important to note that the rules will not apply to wholesale client money.

The Bill was introduced to the Australian Senate (upper house) on 14 February 2017. The Bill had its first and second readings on the same day. The Bill is likely to be debated by the Senate at the next available opportunity.

It is important to note that the industry will have a 12-month transition period in which to implement the reforms from the date the Bill is finally passed, allowing industry time to adapt to the new regime.

Under the Bill, AFSL holders will be required to hold retail derivative client money on trust. A fundamental protection of the trust requirement is that client money can be returned to clients, and not paid to creditors, in the event of the licensee's insolvency.

The requirement to hold client money on trust already applies to the vast majority of financial products and financial services under Australia's client money regime.

The Bill also contains provisions allowing ASIC to write client money reporting and reconciliation rules. ASIC is required to first consult with the industry about these rules, especially since their effect may prove costly to firms, pushing the time-frame for their implementation further into the future.

ASIC claims 'These reporting and reconciliation requirements would apply more formal and consistent standards to industry, and help to improve the handling of client money. They would also assist ASIC to detect breaches of the client money regime affecting retail derivative clients in a more timely way'.

We will continue to update you as the Bill moves through the Senate.

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