

# Chapter 8

## Mandates



8.3 Records and internal controls

8.3.1 R A firm that has mandates must establish and maintain adequate records and internal controls in respect of its use of the mandates.

8.3.2 R The records and internal controls required by CASS 8.3.1 R must include:

- (1) an up-to-date list of each mandate that the firm has obtained, including a record of any conditions placed by the client or the firm's management on the use of the mandate and, where a mandate was received in non-written form in the course of, or in connection with, its designated investment business, the details required under CASS 8.3.2C R;
- (2) a record of each transaction entered into under each mandate that the firm has;
- (3) internal controls to ensure that each transaction entered into under each mandate that the firm has is carried out in accordance with any conditions placed by the client or the firm's management on the use of the mandate;
- (4) the details of the procedures and internal controls around the giving of instructions under the mandates that the firm has (such instructions being those referred to in CASS 8.2.1 R (4)); and
- (5) where the firm holds a passbook or similar documents belonging to the client, internal controls for the safeguarding (including against loss, unauthorised destruction, theft, fraud or misuse) of any passbook or similar document belonging to the client held by the firm.

A firm's list of mandates

8.3.2A R

- (1) A firm's up-to-date list of mandates under CASS 8.3.2 R (1) must be maintained in a medium that allows the storage of information in a way accessible for future reference by the FCA or by an auditor preparing a report under SUP 3.10.4 R.
- (2) It must be possible for any corrections or other amendments, and the contents of the list prior to such corrections and amendments, to be easily ascertained.

8.3.2B G A firm may use version control to comply with CASS 8.3.2A R (2).

- 8.3.2C** **R** An entry in a *firm's* list of *mandates* under **■ CASS 8.3.2 R (1)** that relates to a *mandate* that was received in non-written form (eg in a telephone call) in the course of, or in connection with, its *designated investment business* must, as well as the information referred to at **■ CASS 8.3.2 R (1)**, include the following details:
- (1) the nature of the *mandate* (eg debit card details);
  - (2) the purpose of the *mandate* (eg collecting insurance premiums);
  - (3) how the *mandate* was obtained (eg by telephone);
  - (4) the name of the relevant *client*; and
  - (5) the date on which the *mandate* was obtained.
- 8.3.2D** **G** If a *firm* receives information through a telephone call in the course of, or in connection with, its *designated investment business* that amounts to a *mandate* as a result of the *firm* retaining a recording of the call (see **■ CASS 8.2.3 G**), the requirements at **■ CASS 8.3.2 R (1)** apply, regardless of whether or not the *firm* intends to use the *mandate* in the future. The *firm* will meet the requirements of **■ CASS 8.3.2 R (1)** if the *firm's* list of *mandates* is updated with the details of the *mandate* that the *firm* obtained as a result of the call.
- 8.3.2E** **G** A *firm* should not reproduce information meeting the conditions under **■ CASS 8.2.1 R** as a separate record (eg by including such information in its list of *mandates* under **■ CASS 8.3.2 R (1)**) unless the *firm* considers this necessary, as this creates additional risk of misuse. Making a record of the details concerning the *mandate* described in **■ CASS 8.3.2C R** would be appropriate.
- 8.3.2F** **G** When keeping its list of *mandates* under **■ CASS 8.3.2 R (1)** up to date:
- (1) a *firm* should create a new entry in the list each time the *firm* obtains a new *mandate*;
  - (2) if, for an existing entry on its list, a *firm* obtains the same information meeting the conditions in **■ CASS 8.2.1 R** again (eg in a written confirmation following a paperless direct debit), the additional *mandate* is not a new *mandate* and the *firm* should not create another entry on the list; but
  - (3) the *firm* should, for every entry on its list, identify each of the locations in which it has retained the information that meets the conditions in **■ CASS 8.2.1 R** (eg a *client's* debit card details retained in a telephone recording and also the *firm's* written log of the call, or two separate documents containing the same information).
- 8.3.2G** **R** **Retention of records**  
A *firm* must retain the records required under **■ CASS 8.3.1 R** in relation to a particular *mandate* for the following period after it ceases to have the *mandate* (e.g. because the *firm* has destroyed the relevant document, electronic record or telephone recording), as applicable:

- (1) subject to (2), a minimum of one year;
- (2) a minimum of five years, where the relevant *mandate* was held by the *firm* in the course of, or in connection with, its *MiFID business*.

**8.3.2H** G Where a *firm* has an obligation under ■ CASS 8.3.2G R to retain records after it ceases to have a particular *mandate*, it may keep the *mandate* on the *firm's* list under ■ CASS 8.3.2 R (1) for the relevant period, but the list should be updated to reflect the fact that it ceased to have the relevant *mandate* at the relevant date.

**8.3.3** G A *firm* should distinguish between conditions placed by a *client* on the *firm's* use of a *mandate*, and criteria to which transactions effected by a *firm* with or for a *client* may be subject.

- (1) The requirements in ■ CASS 8.3.2 R (1) and ■ CASS 8.3.2 R (3) apply only in respect of conditions placed around the *firm's* use of a *mandate* itself or around the instructions described in ■ CASS 8.2.1 R (4). Examples of these include conditions under which a *mandate* may only be used by the *firm* in connection with transactions up to a certain value, or under which instructions under a *mandate* may only be given by certain personnel within the *firm*.
- (2) The requirements in ■ CASS 8.3.2 R (1) and ■ CASS 8.3.2 R (3) do not apply in respect of criteria which relate to the nature and circumstances of transactions effected by a *firm* with or for a *client*. Examples of those criteria include investment restrictions or exposure limits for a managed portfolio, and required or preferred execution prices or execution venues.