

CLIENT ASSETS REPORTING (AMENDMENT NO 2) INSTRUMENT 2011

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 139 (Miscellaneous ancillary matters);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157 (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 1 of Annex D to this instrument comes into force on 1 June 2011;
 - (2) the remainder of this instrument comes into force on 1 October 2011.

Amendments to the Handbook

- D. (1) The Client Assets sourcebook (CASS) is amended in accordance with Annex A to this instrument.
- (2) The Supervision manual (SUP) is amended in accordance with Annex B to this instrument.

Amendments to the Client Assets Reporting (Amendment) Instrument 2011

- E. (1) The Client Assets Reporting (Amendment) Instrument 2011 (FSA 2011/26) is amended in accordance with Annex C to this instrument.
- (2) The commencement of Annex B to the Client Assets Reporting (Amendment) Instrument 2011 (FSA 2011/26) is deferred to 1 October 2011.

Amendments to the Client Assets Sourcebook (Enhancement) Instrument 2010

- F. (1) Part 1 of Annex C to the Client Assets Sourcebook (Enhancement) Instrument 2010 (FSA 2010/52) (which amends the Supervision manual (SUP)) is amended in accordance with Annex D to this instrument.
- (2) The commencement of Part 1 of Annex C to the Client Assets Sourcebook (Enhancement) Instrument 2010 (FSA 2010/52) (which amends the Supervision manual (SUP)) is deferred to 1 October 2011.

Citation

- G. This instrument may be cited as the Client Assets Reporting (Amendment No 2) Instrument 2011.

By order of the Board
26 May 2011

Annex A**Amendments to the Client Assets sourcebook (CASS)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

1A.2 CASS firm classification

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- 1A.2.11 G For the purpose of CASS 1A.2.9R(1), the FSA will treat that obligation as satisfied if a *firm* submits a *CMAR* for the ~~period~~ or month ending 31 December in compliance with ~~SUP 16.14.5R~~ SUP 16.14.3R.

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Annex B

Amendments to the Supervision manual (SUP)

In this Annex, all the text is new and is not underlined.

After SUP 16 Annex 29R insert the following new annex. The text is not underlined.

[Editor's Note: The text of 16 Annex 29R is being replaced by the text shown in Annex D to this instrument.]

16 Annex 29AG Guidance notes for the data item in SUP 16 Annex 29R

This annex consists only of Guidance notes for the *data item* in SUP 16 Annex 29R.

Client Money and Asset Return (CMAR)

This annex contains *guidance* on the *CMAR* and is therefore addressed only to a *firm* which is subject to SUP 16.14.

General

Terms used in the *CMAR* bear the meaning ascribed to those terms in the *Glossary*, even though they do not appear in italicised form on the face of the *data item*, unless a contrary indication is given in this *guidance*.

A *firm* is reminded that the effect of SUP 16.14.4R is that in relation to a *firm* to which CASS 5 (Client money: insurance mediation activity) and CASS 7 (Client money rules) apply, that *firm* should not report in the *data item* shown in SUP 16 Annex 29R any *client money* that it holds in accordance with CASS 5.

Valuation

Where this *data item* asks for a *firm* to report or calculate the value of *safe custody assets* that it holds on any given *day*, that *firm* should:

- (a) if it has the previous *day's* mark-to-market value of the *safe custody asset* in question, use that value; or
- (b) if it does not have the previous *day's* mark-to-market value, calculate the value of that asset using the most recent mark-to-market value that it does have; and

in either case, apply a consistent mark-to-market methodology that reflects its normal accounting practice.

Currency

The reporting currency for this *data item* should be GBP (sterling). For the purpose of calculating the value of the total amounts of *client money* and *safe custody assets* that it holds on any given *day* during a reporting period, a *firm* should, in relation to *client money* or *safe custody assets* denominated in a currency other than sterling, translate the value of that *money* or that *safe custody asset* into sterling at the previous *day's* closing spot exchange rate.

Section 1 Firm information

1 Name of CASS audit firm

A *firm* should report the name of the auditor that provides its client assets report (see SUP 3.10). If the auditor is not listed on the menu, where available, a *firm* should choose 'Other'.

2 Name of CASS audit firm (if 'Other' was selected above)

If a *firm* selects 'Other' in (1), it should enter the name of its auditor.

3 Does the *firm* hold *client money*?

A *firm* should state "Yes" or "No".

4 Does the *firm* safeguard and administer *safe custody assets*?

A *firm* should state "Yes" or "No".

5 Is the *firm* subject to a CFTC Part 30 exemption order?

A *firm* should state "Yes" or "No". Handbook provisions dealing with the CFTC Part 30 exemption order are set out CASS 7.4.32G to CASS 7.4.35R.

6 Does the *firm* operate the alternative approach?

A *firm* should state "Yes" or "No". Handbook provisions dealing with the alternative approach are set out in CASS 7.4.14G to CASS 7.4.19G.

7 Has the alternative approach been signed off by the *firm's* auditor?

A *firm* should state "Yes" or "No". CASS 7.4.15R provides that a *firm* that does not operate the normal approach must first send a written confirmation to the FSA from the *firm's* auditor that the *firm* has in place systems and controls which are adequate to enable it to operate another approach effectively.

8A Type of business activity

A *firm* should identify in this data field the investment activities or services in the course of which it holds *client money* or *safe custody assets* belonging to a *client* and may do so using its own description of the activity or service in question.

8B Number of *clients*

In relation to each of the investment activities or services identified, a *firm* should report in this data field the number of *clients* for whom it holds *client money* or *safe custody assets* in respect of the activity or service in question.

8C Balance of *client money* as at reporting period end date

In relation to each of the investment activities or services identified, a *firm* should report in this data field the total amount of *client money* that it holds belonging to *clients* in respect of the activity or service in question.

8D Value of *safe custody assets* as at reporting period end date

In relation to each of the investment activities or services identified, a *firm* should report in this data field the total value of *safe custody assets* that it holds belonging to *clients* in respect of the activity or service in question.

Section 2 Balances9 Highest *client money* balance during the reporting period

A *firm* should report the highest total amount of *client money* that it held at any point during the reporting period.

10 Lowest *client money* balance during the reporting period

A *firm* should report the lowest total amount of *client money* that it held at any point during the reporting period.

11 Highest value of *safe custody assets* held during the reporting period

A *firm* should report the highest total value of *safe custody assets* that it held at any point during the reporting period.

12 Lowest value of *safe custody assets* held during the reporting period

A *firm* should report the lowest total value of *safe custody assets* that it held at any point during the reporting period.

In relation to data fields 9 to 12, a *firm* should ensure that it includes in the amount or value reported any *client money* or *safe custody assets* that has or have been placed with a sub-custodian, either by a custodian with which that *firm* has deposited that *money* or those assets, or by that *firm* if it is a custodian.

In relation to data fields 9 to 12, a *firm* should determine the lowest and highest figures by reference to the data that it has recorded from internal reconciliations over the reporting period in question.

Other than in relation to a *CMAR* submitted in January and in circumstances in which a *CMAR* has been submitted on time in each of the preceding eleven months, submission of a *CMAR* will not have an effect on a *firm's* categorisation as either a *CASS large firm* or as a *CASS medium firm*. As *CASS 1A.2.2R* indicates, a *firm's* obligation to determine its categorisation arises once each year in January of the year in question.

Section 3 Segregation of client money

13A Type

A *firm* should identify the types of institution with which it has placed *client money*. *CASS 7.4.1R* identifies the type of institution with which a *firm* must promptly place into one or more accounts *client money* that it receives. *CASS 7.5.2R* identifies a limited number of circumstances in which a *firm* may allow another *person*, such as an exchange, a *clearing house* or an *intermediate broker*, to hold or control *client money*.

13B Institution where *client money* held

A *firm* should report the full name of the individual legal entity with which it has placed *client money*.

13C *Client money* balances

A *firm* should report the total amount of *client money* which it has placed with each institution identified in 13B.

13D Country of incorporation of the institution

A *firm* should report the name of the country in which each institution with which it places *client money* is incorporated using the appropriate two letter ISO code.

13E Group entity

A *firm* should indicate in this data field whether each institution with which it has placed *client money* is or is not a relevant group entity within the meaning of *CASS 7.4.9BR*. A *firm* should note that the definition in *CASS 7.4.9BR* is specific to *CASS* and the entities which comprise it may not be the same as those which comprise the *firm's* group.

Section 4 Client money requirement and resource

14 *Client money* requirement

In relation to a *firm* that follows the *standard method of internal client money reconciliation*, that *firm* should report its *client money* requirement, calculated in accordance with *CASS 7 Annex 1G* paragraph 6.

Included in the *client money* requirement is allocated but unclaimed *money* which a *firm* continues to treat as *client money*; for example, *client money* balances held in respect of *clients* whom the *firm* is no longer able to contact.

15 Unallocated to individual *clients* but identified as *client money*

A *firm* should report the amount of unallocated *client money* that it holds. A *firm* may be unable to allocate *client money* to an individual *client* on initial receipt of that *money* because of differences in trading hours, late journal adjustments or a failure by a third party to mark *money* (such as a dividend payment) that it sends to the *firm* as being for the account of the *client* in question.

16 Unidentified *client money* in *client money bank accounts*

A *firm* should report the amount of *money* other than *client money* that is held in that *firm's client bank accounts* and *client transaction accounts* which is the subject of enquiry by that *firm* to determine whether that *money* is *client money*.

17 Uncleared payments e.g. unrepresented cheques sent to *clients*

A *firm* should report the amount of *client money* accounted for by as yet uncleared payments to that *firm's clients* drawn on a *client bank account* of the *firm*. In this data field a *firm* should therefore include cheques and other payable orders, including electronic bank payments, in favour of a *client* but which have not been paid by the bank.

18 Excess cash in segregated accounts

In relation to a *firm* that follows the *standard method of internal client money reconciliation*, that *firm* should report the amount of *client money* that it holds in *client bank accounts* and *client transaction accounts* which exceeds the amount reported in data field 14. CASS 7.4.21R explains when such an excess might arise.

19 *Client money* resource

In relation to a *firm* that follows the *standard method of internal client money reconciliation*, that *firm* should report the amount of its *client money* resource, as defined in CASS 7 Annex 1G paragraph 1 in respect of a *firm* that adopts the normal approach and as defined in paragraph 2 of that annex in respect of a *firm* that adopts the alternative approach.

20 Surplus (+)/ deficit (-) of *client money* resource against *client money* requirement

A *firm* should report in this data field the amount by which its *client money* resource exceeds its *client money* requirement (to be reported in the *data item* as a positive amount), or as the case may be, the amount by which its *client money* requirement exceeds its *client money* resource (to be reported in the *data item* as a negative amount).

- 21 Adjustments made to withdraw an excess or rectify a deficit identified as a result of an internal reconciliation.

In relation to a *firm* whose *client money* resource and *client money* requirement were shown in the penultimate internal reconciliation carried out in the reporting period to be unequal, that *firm* should report the amount of *money* that it added to correct a *shortfall* or, as the case may be, that it withdrew reflecting an excess.

In relation to data fields 14 to 20, a *firm* should report by reference to the results of its internal reconciliations carried out on the reporting period end date, or if that date is not a *business day*, by reference to those carried out on the *business day* nearest to the reporting period end date.

Section 5 Client money reconciliations

- 22 *Client money* internal reconciliation

A *firm* should identify in this data field the frequency with which it performs internal reconciliations.

- 23 *Client money* external reconciliation

A *firm* should identify in this data field the frequency with which it performs external reconciliations.

- 24 *Client money* unreconciled items

A *firm* should identify in this data field the number of unreconciled *client money* items and allocate each item to one of the specified time bands according to the length of time for which it has remained unreconciled.

For the purpose of this data field, a *firm* should calculate the number of calendar *days* between the date on which an internal reconciliation in respect of that item should have been carried out, but was not, and the reporting date.

Section 6 Segregation of safe custody assets

- 25A Where and how held

A *firm* should identify in this data field at least those:

- (a) *safe custody assets* which it holds in its physical possession;
- (b) *safe custody assets* the legal title to which is registered and recorded in the name of a *nominee company*;
- (c) *safe custody assets* which it has deposited with a third party custodian;
- (d) *safe custody assets* which, if the *firm* is a custodian, it has deposited with a sub-custodian;

(e) *safe custody assets* which it has deposited with any other third party.

In relation to any asset which falls into more than one of the available categories in 25A, a *firm* should report its holding of that asset in each of the available categories. However, for validation purposes, a *firm* should enter the 25D positive value of that asset in one only of those categories and enter a value of zero in each of the other available categories. A *firm* may choose in which of the available categories it reports the 25D positive value of that asset.

25B Name of institution

A *firm* should report, as relevant, the identity of the *nominee company* to which is registered and recorded the legal title to the *safe custody assets* in question, or the identity of the third party institution with which it has deposited the *safe custody assets*. In relation to *safe custody assets* which it holds in its physical possession, a *firm* should enter its own name in the data field.

In identifying any *nominee company* or third party institution in this data field, a *firm* should ensure that it specifies the full name of the individual legal entity with which the *safe custody assets* have been deposited.

25C Number of lines of stock

In relation to each *nominee company* or third party institution identified in 25B, a *firm* should report the total number of lines of stock being *safe custody assets* to which in the case of a *nominee company* legal title has been registered and recorded in its name and in any other case which it has deposited with a third party institution. As a *firm* is only being asked to enter the total number of lines of stock in relation to each identified institution, it is not expected to identify separately *safe custody assets* belonging to an individual *client*.

For the purpose of this data field, a *firm* should treat each stock which bears its own CUSIP or ISIN number as a separate line of stock.

25D Value of *safe custody assets* as at reporting period end date

As at the reporting period end date, a *firm* should calculate the total value of the *safe custody assets* held by each institution identified in 25B and enter that value in the data field. In completing 25D a *firm* should have regard to the *guidance* given in relation to 25A.

25E Country of incorporation of the institution

In relation to each institution identified in 25B, a *firm* should report the name of the country in which that institution is incorporated using the appropriate two letter ISO code.

25F Group entity

A *firm* should indicate in this data field whether each institution with which it has placed *safe custody assets* is or is not a member of that *firm's group*.

Section 7 Safe Custody Assets Reconciliations

26 *Safe custody assets* unreconciled items

A *firm* should identify in this data field the number of unreconciled *safe custody assets* items and allocate each item to one of the specified time bands according to the length of time for which it has remained unreconciled.

For the purpose of this data field, a *firm* should calculate the number of calendar *days* between the date on which an internal reconciliation in respect of that item should have been carried out, but was not, and the reporting date.

In relation to the 30-day field, a *firm* should report items which have remained unreconciled for no more than 30 *days*.

In relation to the 60-day field, a *firm* should report items which have remained unreconciled for at least 31 *days*, but no more than 60 *days*.

In relation to the 90-day field, a *firm* should report:

- (a) items which have remained unreconciled for at least 61 *days*, but no more than 90 *days*; and
- (b) items which have remained unreconciled for 91 *days* or more.

27A Method

In relation to each type of *safe custody asset* identified in 27C, a *firm* should report the method of internal reconciliation that it applies to that type of asset. CASS 6.5.2R to CASS 6.5.5R set out *rules* and *guidance* in relation to internal reconciliation methods.

27B Frequency

In relation to each method identified in 27A, a *firm* should report the frequency with which it conducts internal reconciliations using that method.

27C Type of *safe custody asset*

A *firm* should report the different types of *safe custody asset* that it holds and may do so using its own description of an asset type.

Section 8 Record keeping and breaches

31 Has the *firm* complied with the requirements in CASS 6.5.1R, CASS 6.5.2R and CASS 6.5.6R?

A *firm* should indicate whether it has complied in all material respects with the requirements set out in CASS 6.5.1R, CASS 6.5.2R and CASS 6.5.6R.

- 32 Following reconciliation, is the *firm* unable, in any material respect, to comply with CASS 6.5.10R?

If a *firm*, having carried out a reconciliation, has not complied with or is unable in any material respect to comply with CASS 6.5.10R, it should record that fact in this data field. CASS 6.5.10R provides that a *firm* must promptly correct any discrepancies which are revealed in the reconciliations envisaged by CASS 6.5, and make good, or provide the equivalent of, any unreconciled *shortfall* for which there are reasonable grounds for concluding that the *firm* is responsible.

- 33 Has the *firm* complied with the requirements in CASS 7.6.1R, CASS 7.6.2R and CASS 7.6.9R?

A *firm* should indicate whether it has complied in all material respects with the requirements set out in CASS 7.6.1R, CASS 7.6.2R and CASS 7.6.9R.

- 34 Following reconciliation, is the *firm* unable, in any material respect, to comply with CASS 7.6.13R to CASS 7.6.15R

If a *firm*, having carried out a reconciliation, has not complied with or is unable to comply with one or more of the obligations found in CASS 7.6.13R to CASS 7.6.15R, it should record that fact in this data field. CASS 7.6.13R to CASS 7.6.15R set out requirements which apply to a *firm* in relation to internal and external reconciliation discrepancies.

In relation to data fields 31 and 33, a *firm* should only report in the affirmative if it has been in compliance with the *rules* specified in those data fields at all times throughout the reporting period in question. In relation to data fields 32 and 34, a *firm* should report the fact of its non-compliance if it has any time during the reporting period failed to comply with the specified *rules* in the way envisaged by CASS 6.5.13R(2) and CASS 7.6.16R(2), whether or not it is in compliance at the period end date.

CASS 6.5.13R and CASS 7.6.16R require that the *FSA* be informed without delay of any of the matters in respect of which notification is required by those *rules*. Submission of the *CMAR* within the time limit specified in SUP 16.14.3R does not discharge the obligations in those *rules* and a *firm* remains obliged to notify the *FSA* as soon as it becomes aware that any of the circumstances described in those *rules* has arisen.

Section 9 Outsourcing and offshoring

In relation to its business that is subject to CASS, a *firm* should report in data field 35 outsourcing and offshoring arrangements that it has established which it judges to be material to that business, either by reason of their scale or their importance.

Validation

Validation number	Data element	Sign	Formula
1	8B	>	0 (NIL)
2	8C(total)	=	$8CT = \sum 8C$
3	8C (total)	=	$8CT = 13CT$
4	8D (total)	=	$8DT = \sum 8D$
5	8D (total)	=	$8DT = 25DT$
6	10A	<=	9A
7	12A	<=	11A
8	13C(total)	=	$13CT = \sum 13C$
9	20A	=	14A-19A
10	25D(total)	=	$25DT = \sum 25D$
11	28D	=	28A+28B-28C
12	29D	=	29A+29B-29C
13	30D(total)	=	$30DT = 28D + 29D$

Annex C

Further amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text.

To the text of SUP 16.14, as inserted by the Client Assets Reporting (Amendment) Instrument 2011 (FSA 2011/26), there is added the following text.

16.14 Client money and asset return

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Method of submission

16.14.6 R A CMAR must be submitted by electronic means made available by the FSA.

Annex D

Further amendments to the Supervision manual (SUP)

Part 1: Comes into force on 1 June 2011

SUP 16 Annex 29R, as made by the Client Assets Sourcebook (Enhancement) Instrument 2010 (FSA 2010/52), is revoked.

Part 2: Comes into force on 1 October 2011

After SUP 16 Annex 28BG insert the following new annex. The text is not underlined.

16 Annex 29R Client Money and Asset Return (CMAR)

This annex consists only of one or more forms. Forms are to be found through the following address:

Client Money and Asset Return: [insert link to form included below]

see next page

Section 8 - Record Keeping & Breaches

Record Keeping

This section should only be completed if the answer to question 3A is "Yes"

	A	B	C	D	E	F
	Number of accounts held at beginning of reporting period	Number of new accounts opened during the reporting period	Number of accounts closed during the reporting period	Total number of accounts at the end of the reporting period	Number of trust status letters and/or acknowledgement letters in place that cover these accounts	Explanation of discrepancies
28 Client bank account						
29 Client transaction account						
30 Total						

Notifiable CASS Breaches

This section should be completed by all firms

- 31 Has the firm complied with the requirements in CASS 6.5.1R, 6.5.2R and 6.5.6R ? A
- 32 Following reconciliation is the firm unable, in any material respect, to comply with the requirements in CASS 6.5.10R
- 33 Has the firm complied with the requirements in CASS 7.6.1R, 7.6.2R and 7.6.9R?
- 34 Following reconciliation, is the firm unable, in any material respect to comply with the requirements in CASS 7.6.13R to 7.6.15R

Section 9 - Outsourcing & Offshoring

This section should be completed by all firms

	A	B	C	D
	Who do you outsource and/or offshore your client money and/or custody asset operations to? (name of entity)	What function of your CASS operations do you outsource and/or offshore?	Location of service provider	Significant changes being made or planned to existing arrangements
35				